

Office of the Legal Commissioner  
GPO Box 4460  
Sydney NSW 2001

Dear Sir/Madam

**RE: COMPLAINT REPORT ON PIPER ALDERMAN (ABN 42 843 327 183) AND ITS LEGAL PRACTITIONERS:**

- **Partners: Florian Samuel Ammer and Anne Elizabeth Freeman** (solicitor on record in proceedings);
  - **Solicitors: Matthew Adrian Mennilli, Hannah Sue Veldre, Malcolm Mervyn Quirey, Brendan May and Stefano Calabretta.**
  - **Owen Timothy Daniel Nanlohy** (*Law Clerk in 2016/Admitted Solicitor in 11/12/2017. Impersonated a barrister, James Willis, at court on 16/8/2016 with paralegal Ms Miller impersonating an instructing solicitor*).
  - **Paralegal/Justice of Peace ("JP"): Natalie Louise Miller** (*Impersonated a solicitor in court hearings and handled/tampered/created evidence at the bar table at the final hearing*).
- Local Court Civil Proceedings: Odtojan ats Credit Corp Services Pty Ltd. (Proceedings No. 2014/00219407).**
- Related complaints: OLSC (Nos. 53526; 53544) and Professional Standard Board Complaint (No.42049) and report on P.W.Rosier dated 18/4/18 (Nos. 54563).**

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<sup>1</sup> Admitted as Solicitor in December 2017.

<sup>2</sup> Form 3A only, without attached documents, (the chronology and cost attendances), which are the same attachments in the filed Application in **Annexure A.2**. (The attached documents are available upon request).

<sup>3</sup> *Ibid.*

<sup>4</sup> Full Exhibits from the said affidavit are available upon request.

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## A. INTRODUCTION

1. The following reports are relevant and relate to the above local court proceedings, ("the proceedings"):
  - (a) The Office of Legal Services Commissioner, ("**OLSC**") complaint reports, reference numbers: 53526, 53544<sup>6</sup> and 54563<sup>7</sup>;
  - (b) The NSW Law Society - Professional Standard Board, ("**LS\_PSB**") reference number: 42049<sup>8</sup>
  
2. The nature of this complaint report pertains to the said proceedings and to subsequent events and conduct to date. The report is extensive due to the **highly organised, coordinated and premeditated conduct of Piper Alderman lawyers and its Counsel**, on behalf of Credit Corp Services Pty Limited, an ASX listed company/Plaintiff in the proceedings, ("Credit Corp"), engaging in the following, but not limited to, as set out in this report<sup>9</sup>:
  - (a) Gross dishonesty, misleading and deceptive conduct<sup>10</sup>;
  - (b) Conspiracy to:
    - (i) Pervert the administration and the course of justice<sup>11</sup>;
    - (ii) Defraud<sup>12</sup>;
    - (iii) Conduct a 'hearing by ambush'<sup>13</sup>;
  - (c) Fraud and collusion<sup>14</sup>;
  - (e) Gross disrespect, disregard and breach of:
    - (i) Applicable statutory laws<sup>15</sup>;
    - (ii) Rules, procedures and processes of the justice system<sup>16</sup>;
    - (iii) Inherent confidentiality of the dispute resolution process<sup>17</sup>;
  - (f) Enabling and encouraging its employees to impersonate legal practitioners at court:
    - (i) Law Clerk, Mr Owen Nanlohy<sup>18</sup>;
    - (ii) Paralegal/Justice of Peace, Ms Natalie Miller<sup>19</sup>;
  - (g) Assisting its client's witness to commit Perjury<sup>20</sup>;
  - (g) Fabricating and relying on fraudulent financial/business documents in the Application for Assessment of Costs filed 9/1/2018 in the Supreme Court of NSW<sup>21</sup>;

<sup>6</sup> 53526 and 53544 - reports made on Certus Partners Lawyers to the **OLSC**, dated 1/12/2017.

<sup>7</sup> 54563 report made on P.W.Rosier to the **OLSC**, dated 18/4/2018.

<sup>8</sup> Piper Alderman made a report on me to the **OLSC/LS\_PSB** in February 2016. The complaint was closed and not made out.

<sup>9</sup> Court transcripts, documents and other materials substantiate the issues and conduct raised in this report.

<sup>10</sup> See '*Gross Dishonesty, Misleading and Deceptive Conduct*' on p.61 in this report.

<sup>11</sup> See under heading '*Conduct*' from p.61 in this report.

<sup>12</sup> This conduct is not limited to defrauding an individual, it involves defrauding the Commonwealth (where strict laws and regulations are breached and circumvented: *the ASIC Act, Trade Practices Act 1974*, and the *Credit Code*. Piper Alderman abused their position as legal practitioner/officers of the court to assist its client to exploit the justice system.

<sup>13</sup> See '*Final Hearing*' p.18; '*Judgment*' p.24; '*Presiding Magistrate Sharon Freund at Final Hearing*' p.26.

<sup>14</sup> See under heading '*Conduct*' from p.61 this report.

<sup>15</sup> Contravention of statutory regulations and obligations under the *Uniform Legal Profession Law; ASIC Act; Corporations Act; Trades Practices Act, The Australian Consumer Law*; Refer to '*Background of Applicable Legislation*' on p.31 in this report.

<sup>16</sup> As set out in this report; See under heading '*Conduct*' from p.61 in this report.

<sup>17</sup> External Dispute Resolution process ("EDR") via the Credit and Investments Ombudsman process ("**CIO**"). Credit Corp is a member of the **CIO** scheme. See '*Breach/Disregard of Inherent Confidentiality of Dispute Resolution Process*' on p.75 in this report.

<sup>18</sup> Mr Owen Nanlohy was a law clerk at the time when he impersonated barrister James Willis before court on 16/8/2016 and made applications and submissions to the court. Mr Nanlohy was admitted as a solicitor on 11/12/2017; See further details on p.82 in this report.

<sup>19</sup> Ms Miller impersonated a solicitor/instructing solicitor before court on 17/12/15, 30/3/16, 18/7/16, 19/2/16, 16/8/16, 29/8/16. Ms Miller personally appeared in court on 2/9/16 and appeared on approximately 11 return of subpoena court events. At the final hearing, Ms Miller handled/tampered witness evidence and gave evidence at the bar table. For further details, see p.86 in this report. (Notice will be provided to Law Society of NSW on the said matters).

<sup>20</sup> Mr Adam Carpenter, the chief witness of Piper Alderman's client, wilfully committed perjury in giving evidence, (affidavit evidence and under oath in the witness box in court on 18/7/16; For further information see p.76 in this report.

<sup>21</sup> The said Application contained fabricated and manipulated cost attendances; See from p.90 and table on page 91 in this report.

- (h) Gross costs/overcharging and unlawful enrichment of Piper Alderman Lawyers. Defrauding the Crown, taxpayers and me<sup>22</sup>;
  - (i) Violation of Human Rights<sup>23</sup>.
3. The above improprieties and criminal activities were uncovered having undergone this case and through meticulous investigation.<sup>24</sup> Had I not undergone these proceedings, I would not have uncovered the complexity of an elaborate scheme, which I have reasonable grounds to believe, has been established within our justice system by a financial-legal syndicate, and designed to:
    - (a) Perpetuate an unlawful business model;
    - (b) Process volumes of cases of unsuspecting litigants/consumers/individuals from the general public, to deprive/hinder them from exercising their legal rights;
    - (c) Circumvent the laws, pervert the administration and the course of justice to obtain judgments and costs/indemnity orders, and for the law firm/lawyers to obtain unlawful enrichment in the process; and
    - (d) Perpetuate the perversion and grave miscarriage of justice in relying on such judgments/cost orders obtained by unlawful means.
  4. It is only because of my profession, my experience and training as a legal practitioner and being in a unique position of having knowledge in the matter (a party and witness to the case, and having another witness to the entire court proceedings), that I was able to uncover the complex unlawful scheme/business model through intensive and extensive research and review of the documents and transcripts and conduct of the lawyers.
  5. Those who committed, participated and supported the gross acts, (listed in paragraph 2 above), are regular users of the court system and/or hold office within the court. They have legal status, qualifications and privileges as legal practitioners/officers of the court. Piper Alderman lawyers and those who participated in the said acts are singularly dangerous to the public, to the legal profession and to the integrity of the justice system. The matters raised in this report concern public interest.

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<sup>22</sup> Piper Alderman knowingly relied on false pleadings of a 'credit card contract' as a cause of action in its client's claim and wilfully abused the justice system, using it as a platform to incur gross costs and for the unlawful enrichment of the lawyers /law firm. Piper Alderman incurred costs in excess of a quarter of a million dollars in these proceedings, (Derived from the affidavit of Mr Ammer sworn 15/8/2016 and its exhibit Tab 1 invoices. See **Annexure "B"-'"B.1"**). Mr Ammer, Partner of Piper Alderman, demonstrates that he takes no responsibility in the conduct of this matter and the costs incurred. (See Piper Alderman/Mr Ammer's submission dated 27/4/2018 within the Costs Assessment process in **Annexure "D.1"**, which confirms that the case presented and ventilated at the final hearing was a 'card collection form' as the core document to prove the claim. A different case to what was put to me in their claim, which pleaded a credit contract, and different to their case summary, which refers to a contract to be presented and to be put to proof that, it was entered (See **ASOC** in **Annexure "F"** and Summary of Plaintiff's case dated 21/6/2016 in **Annexure "H"**).

<sup>23</sup> The final hearing was a 'hearing by ambush'. The explicit complicity of the lawyers to engage in such act, violated human rights and deprived a party in proceedings of their right to a fair and adversarial hearing. There is no finality in this case. The real issues in dispute, the pleaded cause of action in the claim and pleadings in the defence, the applicable laws and regulations were not presented nor ventilated at the final hearing. This was achieved by the conspiracy to pervert the administration and course of justice between Piper Alderman, its counsel, Mr Hartford Davis and my purported legal representatives, Mr Ford and Mr Glynn, with the assistance of the presiding Magistrate Freund; See from '*Interlocutory Hearing*' on p.13, '*Final Hearing*' on p.18, '*Judgment*' on p.24 to '*Presiding Magistrate S. Freund..*' on p.26 in this report.

<sup>24</sup> I had to review voluminous court documents, transcripts, and communications, attend court to inspect the court file, comparing filed documents with documents represented to me by my Mr Ford and Mr Glynn, which I discovered were not the same and there were other documents handed up to the court by Mr Ford and Mr Glynn which were never put to me nor consented to or had any knowledge of. Such document as Mr Ford's Case Outline and Statement of Agreed Facts and Issues. Upon Mr Ford's involvement in my matter, (on 23 February 2016), Mr Ford had premeditated malicious intent to conspire with Piper Alderman to sabotage my case and act contrary to his duties as my legal representative and as an officer of the court. Mr Ford ensured I would not ventilate the real issues of the non-existence of the credit contract pleaded in the claim. There is retribution and heavy statutory penalties, (approx. up to \$6 million or more) for Piper Alderman, its client and the Bank (St George Bank/Westpac Bank), for false pleadings in the claim and making misleading and deceiving representations for 10 years of an existence of a credit card contract when such no such contract exists. This includes the credit insurance contract.

6. Piper Alderman is a national commercial law firm, a regular user of the court system, conducting matters on behalf of sophisticated corporate clients, such as Credit Corp Services Pty Limited<sup>25</sup>. Piper Alderman represent Credit Corp on a national scale, on matters in which its '*primary business is the purchase of consumer debts (mainly credit cards...)*'<sup>26</sup>. It is a standard business practice for Credit Corp and its lawyers to file claims on credit law-consumer type matters.
7. Piper Alderman lawyers and its Partners: Ms Anne Freeman (Ms Freeman)<sup>27</sup> and Mr Florian Ammer, ("Mr Ammer")<sup>28</sup> act for Credit Corp on credit law-consumer type matters and the lawyers are expected to be qualified, experienced and knowledgeable in:
  - (a) The conduct of credit contract matters:
    - (i) which are governed by strict credit laws and regulations;
    - (ii) that imposes heavy penalties for contravention and non-compliance of the said strict legislation and regulations;
  - (b) The case management of proceedings, the court rules, regulations, process and procedures;
  - (c) Their legal obligations, their paramount duties as officers of the court, to assist the administration of justice and their obligations to opposing parties;
  - (d) The standard conduct and business documents of:
    - (i) their clients in making claims pursuant to credit contracts;
    - (ii) the production of particulars/documents in reply to standard request/notices/Orders to produce of credit contracts/material documents; and
    - (iii) relevant essential documents pursuant to legislation.
8. I was brought as a party into these court proceedings by a Statement of Claim filed by Credit Corp and its lawyers, **pleading a cause of action pursuant to a "credit card contract", as a material fact**<sup>29</sup>. However, such pleadings were done under false pretences<sup>30</sup>, a premeditated act to grossly mislead the court and me with malicious intent to defraud and pervert the administration and the course of justice.
9. Piper Alderman premeditated to assist its client to deliberately mislead the court and me, (the opposing party)<sup>31</sup>, wantonly abusing their positions as lawyers and court officers, from the outset of the proceedings:
  - (a) Grossly misrepresenting a legal claim pursuant to a pleaded credit card contract<sup>32</sup>;
  - (b) Never producing nor ventilating the pleaded credit card contract throughout the court proceedings and at the final hearing;
  - (c) Disregarding applicable laws/regulations/rules/obligations and orders;
  - (d) At any cost/effort and on every occasion divert, eliminate the issue of the existence of the credit card contract<sup>33</sup>, grossly misleading the court<sup>34</sup>;

<sup>25</sup> Credit Corp and its lawyers, Piper Alderman file claims against litigants who are mainly individuals, self-represented and disadvantaged in resources, particularly in financial resources.

<sup>26</sup> Third last paragraph in Credit Corp/Piper Alderman's Application for Assessment filed 9/1/2018 in **Annexure "A.2"**.

<sup>27</sup> Ms Freeman is the Solicitor on record in the proceedings. Paralegal/JP, Ms Natalie Miller impersonated Ms Freeman before court in these proceedings. The judgment records 'Ms Freeman' as instructing solicitor when paralegal Ms Miller was 'instructing' at the bar table; See p.86 in this report.

<sup>28</sup> Mr Ammer was a Senior Associate when Piper Alderman undertook this matter. Mr Ammer became a Partner in February 2016.

<sup>29</sup> Refer to '*Credit Corp (Plaintiff) Claim*' p.30 in this report.

<sup>30</sup> To date, no such pleaded credit contract has been produced despite exhaustive notices/subpoena/court orders. See '*Notices of issues and conduct*' on p.40 '*Notices RE: Credit and Insurance Contract*' and its table from p.42; See Requests/Notices to Produce in **Annexes "C"** to "**C.1**".

<sup>31</sup> Credit Corp and its lawyers wilfully pleaded a credit contract as a cause of action in their claim, with knowledge that such pleaded contract does not exist. Piper Alderman and Certus Partners assisted Credit Corp to make such false pleadings, signing the claim and filing to court, in breach of professional obligations under *Legal Profession Uniform Law* ("LPUL").

<sup>32</sup> Strict credit laws and legislation govern credit contracts. (*Consumer Credit Code, National Credit Code, TPA 1974, The ASIC Act*). See '*Background of Applicable Legislation*' on p.31.

<sup>33</sup> See Footnote 29 and 30.

- (e) At the final hearing, in collusion with my purported legal representatives<sup>35</sup>, conspired to pervert the administration and the course of justice, agreeing:
- (i) to eliminate and never ventilate:
    1. the issue of the pleaded credit card contract, pleaded as a cause of action, a material fact in the claim;
    2. the real issues in dispute of the non-existence of the credit card contract and any related credit insurance contract;
    3. the pleadings in the claim and the defence<sup>36</sup>;
    3. the applicable strict credit laws and legislation<sup>37</sup>;
    4. my evidence<sup>38</sup> and the merits of my case.

- (f) to Present a completely different case to that pleaded in the claim.

There was conspiracy to present a different case to the court at the final hearing tailored by Piper Alderman, its counsel and my purported legal representatives<sup>39</sup>. By Court Transcripts, the case put to the court at the final hearing was:

- (i) An unoriginal photocopied "card collection form", a non-contractual document, which became the material core document used to prove the claim<sup>40</sup>;
- (ii) Whether there was attendance at a bank branch;
- (iii) Whether a credit card, (not a credit contract), was entered<sup>41</sup>;
- (iv) The signature on the said unoriginal photocopied 'card collection form' to be the only material issue in dispute;
- (v) Whether the signature on the photocopied unoriginal 'card collection form' was my signature. (The expert handwriting report result was inconclusive, notwithstanding Piper Alderman incurred gross costs of approximately \$60,000<sup>42</sup> on such report, an amount alone that is more than the purported claim<sup>43</sup>).

The above issues were the extent of what was ventilated at the entire two-day hearing. The counsels had contemplated an additional court day to make it a three-day hearing.

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<sup>34</sup> At the interlocutory hearing on 30/3/2016, Magistrate Pierce was grossly misled by Piper Alderman Lawyers, its counsel Mr Sebastian Hartford Davis (admitted at the Bar in 2014 and former employee of Piper Alderman) and my purported legal representative Mr Nicolas Ford (also admitted at the Bar in 2014 and colleague of Mr Hartford Davis/did bar together) to vacate the one day 7 April 2016 hearing and protract the proceedings. See '*Interlocutory Hearing*' on p.13 in this report.

<sup>35</sup> Nicolas George Ford of Edmund Barton Chambers admitted at the Bar 2014; Retained on 23/2/2016; Refer to '*Self-Representation and Retained Legal Representatives*' on p.10 and p.36 in this report.

<sup>36</sup> On 30/3/2016, the said counsels, relying on their submission to court, misled Magistrate Pierce and me. His Honour Pierce vacated the listed 7 April 2016 hearing and allowed an additional hearing day to ensure a 'fair hearing' that the matters highlighted such as the issues of the existence of a contract, denial of entering a contract, unsolicited credit card would be ventilated and determined on the 'merits of the case'; Refer to '*Interlocutory Hearing*' on p.13 in this report.

<sup>37</sup> Refer to '*Background of Applicable Legislation*' on p.31 in this report.

<sup>38</sup> **In June 2018, I discovered Mr Ford tampered with my affidavit evidence and that of my witnesses' affidavit evidence.** Mr Ford made multiple unauthorised changes, deletions and created quotes aligned with Credit Corp/Piper Alderman's case. Piper Alderman and its counsel at the final hearing would highlight these editions by Mr Ford. Mr Ford did such act three days from my first meeting with him on 23/3/2016. This indicates that Mr Ford had prior knowledge of the case, which Piper Alderman would present at the final hearing, (i.e. the case not pleaded - the card collection form, of which they presented such a case by conducting a 'hearing by ambush' at final hearing). **Mr Ford** had malicious premeditated intent to sabotage my case, defraud me, frame me as legal practitioner and my legal firm, to seek credit based findings against me at the final hearing, to abuse his position insisting upon me to engage Mr Glynn (solicitor) and Mr Condon (Senior Counsel). Together, they further misled me and deprived me of my rights. In April 2017, when Mr Ford was given notice that questions would be put to him regarding the conduct of my case, **Mr Ford replied by threatening to report me to Legal Commissioner**; See '*Self-Representations and Retained Legal Representatives*' on p.10 and p.36 in this report.

<sup>39</sup> The said lawyers had knowledge from the outset that the pleaded credit card contract did not exist. However, they colluded to eliminate the pleadings in the claim and defence, the real issues, the applicable statutory and common law and suppressed relevant evidence which is contrary to Piper Alderman/Credit Corp's card collection form signature issue - the only dispute ventilated, presenting a different case at the final hearing to what was pleaded in the claim and to what was put in the Plaintiff's case summary. See **ASOC in Annexure "F"** and Plaintiff's case summary in **Annexure "H"**.

<sup>40</sup> A credit card contract was pleaded as the cause of action to prove the claim, not a "card collection form" which gives no legal right to any claim nor an essential document required by law. Such document was never pleaded or mentioned in the claim nor in the '*Summary of the Plaintiff's Case*' dated 21/6/2016 in **Annexure "H"**.

<sup>41</sup> A credit card is not a contract. The claim does not plead a 'credit card' was entered. A credit card gives no legal right to a claim. The Credit Code heavily regulates credit contracts and such *Code* was not ventilated at the hearing.

<sup>42</sup> See '*Handwriting Expert*' on p.72 in this report.

<sup>43</sup> A purported claim of approx. \$40,000.

Throughout the Final hearing, by Court Transcripts, there **was no identification or specification of any credit card contract or the credit insurance contract.**<sup>44</sup>

- (g) To incur gross costs and obtain unlawful enrichment in conducting the proceedings based on the false pleadings of a credit card contract. Piper Alderman incurred costs of approximately quarter of a million dollars<sup>45</sup>;
- (h) In collusion with Mr Ford and Mr Glynn<sup>46</sup> conspired to obtain maximum judgment with full costs/indemnity costs by unlawful means. To ensure to off-load costs on me.

10. **The conduct of Piper Alderman, its Counsel, Mr Hartford Davis, in collusion with my purported legal representatives, Mr Nicolas Ford and Mr Thomas Glynn defrauded the Crown in the excess of approximately \$6 million of possible penalties in assisting, its client Credit Corp and St George Bank/Westpac** to avoid responsibility for multiple breaches of the applicable laws and the non-compliance with statutory obligations under the credit laws in issuing a credit card without a contract: *Trade Practices Act*, the *ASIC Act*, *Consumer Credit Code (National Credit Code)*.<sup>47</sup>
11. When the judgment and cost orders were obtained, there was cover up of the criminal conduct by all those involved including my purported legal representatives and they are assisted by the Costs Assessor/legal practitioner, Mr Peter Rosier and the Manager of Assessment of Costs/Registrar, Mr Brendan Bellach<sup>48</sup>.
12. Currently, Piper Alderman Lawyers filed fabricated and manipulated costs attendances in their Application for Assessment of Costs ("**CAA**") in the Supreme Court - Cost Assessment Process,<sup>49</sup> perpetuating and solidifying the judgment and cost/indemnity order they obtained, on behalf of its client, by unlawful means in the main proceedings.
13. All those involved<sup>50</sup> have exerted aggressive complicity and improprieties to cover what transpired in the main proceedings. They have threatened me, tried to undermine my credibility, attacked my profession in order to maliciously penalise me so I will never be able to recover from the miscarriage of justice arising from their wilful and deliberate criminal conduct to obtain judgments and cost/indemnity order. They have defrauded the Crown (by circumventing the credit laws with heavy statutory penalties), the public<sup>51</sup> and me.
14. I gave numerous written notices of issues, from March 2017 in respect to the judgment to the presiding judge at the final hearing, Magistrate Sharon Freund<sup>52</sup>, requesting her to identify and specify the "credit card contract" she superficially refers to in her judgment, where **no such credit card contract exists, never produced, identified/specified nor admitted in evidence at the final hearing and throughout the proceedings.**

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<sup>44</sup> No credit contract was produced nor submitted in evidence. Neither were there any questions about the contract put to all witnesses to identify and/or specify what the credit contract is. Mr Carpenter, chief witness/employee of Credit Corp committed perjury confirming that interest is from a contract. He had deliberately misled the court that contract existed in his affidavit evidence, when he was aware it did not exist. Further information Mr Carpenter is on p.76 in this report.

<sup>45</sup> See '*Gross Costs/Overcharging and Unlawful Enrichment..*' from p.69 in this report.

<sup>46</sup> On every occasion before court, Mr Ford gave false evidence that contract documents were provided to me on 12/1/2015. (Contrary to my evidence, witness evidence, correspondences, instructions to him etc). Mr Glynn committed intentional negligence, failed his paramount duties to the court, assisting Mr Ford.

<sup>47</sup> Refer to '*Background Of Applicable Legislation*' p.31 in this report.

<sup>48</sup> See correspondences to Mr Bellach and Mr Rosier of notices of issues in the Supreme Court assessment process in **Annexure "D"**; For more details refer to **OLSC** report on Mr Rosier.

<sup>49</sup> See '*Supreme Court Assessment Application*' on p.90 in this report; Also see **Annexes "D" to "D.1"**;

<sup>50</sup> Credit Corp, Piper Alderman, counsels, my purported legal representatives, Mr Rosier amongst others. See Map in **Annexure "M(a)"**.

<sup>51</sup> Where taxpayers funds are used to support false claims filed at the court, burdening the court system used as a platform to commit the unlawful acts

<sup>52</sup> See '*Judgment*' on p.24, '*Presiding Magistrate Sharon Freund...*', p.26 in this report; Refer to **Annexure "C.2"**.



15. The judgment heavily relied on the card collection form<sup>53</sup>, a non-contractual document, as the core material document<sup>54</sup>. Such issues were also put in my letters to my purported legal representatives to clarify. They were and are continually silent on the matter, refusing to answer questions I put to them.
16. Notices of issues of improprieties and criminal activity have been put before Piper Alderman<sup>55</sup>, to the CEO and Board Directors of Credit Corp, to CEO of Westpac and to the General Manager of St George Bank; to Mr Rosier, Mr Ford, Mr Glynn and Mr Condon within the costs assessment process. To date, no reply addressing the issues put to them have been received. They are unified in their silence and continue to ignore the serious notices put to them, of which they were and duly notified.
17. Since 2014, Piper Alderman has repeatedly exhibited their blatant and deliberate abuse of their positions and privileges, posturing behind their titles as legal practitioners and as court officers. They have acted with gross dishonesty, breaching fundamental professional obligations with reckless disregard of any consequences.

***'Lawyers must not mislead the court as to the law, but "must do what they can to ensure that the law is applied correctly to the case"...' <sup>56</sup>***

***'As an "assistant in the administration of justice", a lawyer must be able to command the confidence and respect of the court. Central to this is a commitment not to knowingly mislead the court on any matter...' <sup>57</sup>***

***'...The legal practitioners in this case maliciously misled the court, committing the "outrageously dishonorable" act and, as such, deserve a severe disciplinary action' <sup>58</sup>***

## **B. BACKGROUND**

### **i. Summary of the court proceedings**

#### **(a) The Claim**

18. A Statement of Claim filed 25/7/14 ("**SOC**") and an Amended **SOC** filed 7/1/15, ("**ASOC**")<sup>59</sup>, pleaded a cause of action - credit card contract, as a material fact<sup>60</sup>.
19. Piper Alderman affirmed the pleadings of a 'credit card contract' by amending the **SOC**, further pleading a specific interest rate of '8.66% pursuant to the contract'<sup>61</sup>.

<sup>53</sup> The card collection form was heavily relied in the judgment to determine whether a 'credit card was entered' to prove an alleged debt (a different case pleaded in Credit Corp's Amended Statement of claim and Case Outline dated 21/6/16); 54 out of 57 pages of the judgment relies on the card collection form in the judgment (available upon request); Piper Alderman Submission dated 27/4/2016 only relies on card collection form; Refer to **Annexure "D.1"**;

<sup>54</sup> A different case to what was pleaded in the claim and that of the Plaintiff's case outline dated 21/6/2016

<sup>55</sup> From 19/12/2017 and throughout the Supreme Court Assessment of costs process; See correspondences giving notices of issues during the Supreme Court assessment process in **Annexure "D"**.

<sup>56</sup> *Re Gruzman* (1968) 70 SR (NSW) 316 at 323 (CA).

<sup>57</sup> *Re Davis* (1947) 75 CLR 409 at 420 per Dixon J; *Re Evatt* (1967) 67 SR (NSW) 236 at 245 (CA); *Re Guzman* (1968) 70 SR (NSW) 316 at 323 (CA); *RE B* [1981] 2 NSWLR 372 at 381-382 per Moffitt P; *New South Wales Bar Association v Thomas* (No 2) (1980) 18 NSWLR 193 at 204 per Kirby P.

<sup>58</sup> See [25:10] Dal Pont G, *Lawyers Professional Responsibility in Australia and New Zealand* (5th ed, Lawbook Co., 2003); *Cases: Re Cooke* (1889) 5 TLR 407 at 408 per Lord Esher MR; *O'Reilly v Law Society of New South Wales* (1988) 24 NSWLR 204 at 230 per Clarke JA; *Kyle v Legal Practitioners Complaints Committee* (1999) 21 WAR 56 at 58 per Ipp J.

<sup>59</sup> See 'Credit Corp (Plaintiff) Claim' on p.30; and 'Background of Applicable Legislation' on p.31 in this report; Refer to Amended Statement of Claim (**ASOC**) in **Annexure "F"**;

<sup>60</sup> *Gunns Ltd v Mar* [2005] VSC 251 at [31] per Bongiorno J. - 'The function of statement of claim is to set out with sufficient clarity the case which the defendant must meet'.

<sup>61</sup> Such pleaded interest was never confirmed/verified throughout the court proceedings and at the final hearing to be pursuant to any credit contract. Further, such pleading is contrary to Credit Corp employee's own evidence, that of Mr Adam Carpenter, who stated that Credit Corp had arbitrarily applied the interest rate of 8.66% on the account but never gave evidence (in affidavit nor under oath at the final hearing), that 8.66% interest rate is pursuant to any credit card contract.

20. The **SOC/ASOC**:
- (i) Contained a **false** pleading of a cause of action - credit card contract<sup>62</sup>;
  - (ii) Demonstrated, from the outset, the **premeditated conduct to mislead, deceive, defraud and pervert the administration and the course of justice** by Credit Corp and its lawyers, Piper Alderman/Certus Partners;
  - (iii) Showed **wilful and deliberate contravention** of s.80(1)(a) of the *Consumer Credit Code*<sup>63</sup>(equivalent section 88(1)(a) in the *National Credit Code*)
21. See further information of the claim refer to '*Credit Corp (Plaintiff) Claim*' on page 30 in this report.

**(b) Notices of Issues.**

22. Notices of the issues about the pleaded credit card contract and existence of any credit card contract among other matters were promptly given, as early as December 2014 in the proceedings, to Credit Corp, its lawyers, St George Bank, ASIC, Financial Ombudsman Services ("**FOS**"), **FOS** Code Compliance and the Credit and Investments Ombudsman ("**CIO**").

See '*Notices of issues and conduct*' on page 40 in this report, which provides the notices given to the above-mentioned parties including the External Dispute Process, ("EDR") via the **CIO**.

23. To date, there is continuous non-compliance of **RFBP**, notices to produce (x3) and court orders dated: **7/1/2015, 27/10/2015** and **17/12/2015**, for the production of Para 1: **the pleaded credit card contract**, among other material documents. Such continuous failure to comply and a continuous breach of court orders is contempt of court<sup>64</sup>.

See '*Notices RE: Credit and Insurance Contract*' from page 42 in this report. Also see **RFBP** and Notices to Produce/Orders in **Annexes "C"** to "**C.1**".

**(c) Self-Representation and Legal Representatives**

24. I was brought into these court proceedings, as a respondent, pursuant to a Statement of Claim ("**SOC**") filed by Credit Corp and its lawyers at Sydney Local Court. The claim expressly and solely pleaded a cause of action - a credit card contract.
25. These proceedings are a consumer-credit law matter. Credit contracts are governed by strict statute laws<sup>65</sup>. I am identified as a natural person/consumer. By profession I am a legal practitioner. At the relevant pleaded period of 16 February 2006, I was recently employed and enrolled as a student.
26. From the commencement of the proceedings to date, I had a witness and support person, Mr Artem Bryl, ("Mr Bryl").

**(i) Legal Representative - Mr Nicolas George Ford**

27. I was a litigant in person in these proceedings, from its commencement, in July 2014 up to 23 February 2016, when Mr Nicolas Ford, barrister of Edmund Barton Chambers, ("Mr Ford"), was retained on the matter.

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Noting this, Magistrate Freund's judgment records interest "*pursuant to the credit card contract*" contrary witness' evidence put before the court.

<sup>62</sup> Non-existence of the pleaded credit card contract and related credit insurance contract.

<sup>63</sup> Credit contracts are governed by credit laws; See '*Background of Applicable Legislation*' on p.31 in this report.

<sup>64</sup> *Pyoja Pty Ltd v 284 Bronte Road Developments Pty Ltd and Ors* [2006] NSWSC 831: (i) at 24 failure to answer NTP without lawful excuse is punishable as a contempt. (Note degree of serious interference with due administration of justice) (ii) at 31. Wilful disobedience of an order to Court will of its nature constitute contempt.

<sup>65</sup> Refer to '*Background of Applicable Legislation*' on p.31 in this report.

28. Mr Ford **contacted me about my matter** on or about 17 February 2016, through barrister, Mr Nicholas Silva<sup>66</sup>. **I did not know Mr Ford nor did I approach him for his legal services**<sup>67</sup>.
29. Shortly after my meeting with Mr Ford on 23/2/2016, in the next two days on 25/2/2016, Mr Ford drafted a 12 page Further Amended Defence ("**FAD**"), and provided it to me via email in PDF and advised me to immediately sign and serve to the other side. **Mr Ford drafted the FAD without reviewing my evidence, without any credit contract nor credit insurance contract and made no enquiries.** Mr Ford had received my draft affidavit evidence on 26/2/2016<sup>68</sup>, after he had drafted the **FAD**.
30. Mr Ford was **engaged in my matter to specifically advocate and ventilate:**
- (i) the issues of the non-existence of the credit card contract and credit insurance contract. (Issues that had been put into dispute from the outset);
  - (ii) pleadings in my defences, in particular paragraph 3 - denial of entering any credit card contract, disputing the existence of the pleaded credit contract in the **SOC/ASOC**;
  - (iii) to present my case, evidence and the merits of my case;
  - (iv) to articulate and ventilate the strict credit laws and contraventions<sup>69</sup>.
31. Mr Ford effectively stated to me and my witness/support person, Mr Bryl from the first meeting on 23/2/2016<sup>70</sup>, among others, acknowledging no credit card contract and credit insurance contract.

***"...You were not given the terms of the contract. All of those things are easy arguments... they are not going to be able to prove it..."***<sup>71</sup>

Further, Mr Ford expressly stated to me in respect to the St George Bank, Credit Corp and its lawyers, that: **"they breached it [the Credit Code]"**.

Mr Ford made reassuring comments, from the outset, effectively stating: **"leave it all to me, it's my problem now..."**

32. Mr Ford made multiple representations, such as the above statements, acknowledging to me and Mr Bryl, that no credit card contract nor a credit insurance contract were provided to me and that he would ventilate such issue before court/the final hearing. However, on every

<sup>66</sup> Both barristers did not tell me that Mr Ford knew Credit Corp/Piper Alderman Counsel, Mr Sebastian Hartford Davis. All three are friends and did the Bar together. I only became aware of this at court on 30/3/2016, when Mr Ford was consenting to all requests which Mr Hartford Davis was putting to the court to vacate the listed 7 April Hearing 2016, protracting the proceedings and extending to two day hearing. Refer to '*Interlocutory Hearing*' on p.13 in this report.

<sup>67</sup> Mr Silva highly recommended Mr Ford, representing that Mr Ford is qualified and experienced in my type of matter within credit laws, an area of law in which I do not practice. On or about 11 February 2016, Mr Ford was so eager to be engaged in my matter that, without being retained on the matter nor speaking to me, Mr Ford travelled to Parramatta from Sydney CBD attempting to obtain court documents, affidavit evidence from me via Mr Silva, which we declined to give it to him at the time.

<sup>68</sup> At the final hearing, Mr Ford deliberately misled the court that I was acting for myself when I filed my affidavit sworn 26/2/2016 stating: "*She was acting for herself at that stage, so I think it was filed*". (Para 46 p.57 of Court Transcript 19/7/2016). Mr Ford was retained at the time and he had seen my affidavit and my witnesses' affidavits before they were filed. I discovered in June 2018 when comparing my draft affidavits emailed to him to the drafts he emailed back, where representing that he made no amendments, that he had tampered with my evidence and witnesses' evidence making numerous unauthorised changes.

<sup>69</sup> Credit Card Contract must be in writing (statutory requirement by s.12(1) of *the Consumer Credit Code*), absence of contract contravenes numerous applicable sections of *the Code* (see ss. 12-37 etc) and other applicable legislation (*The ASIC Act, TPA Act 1974* etc) with applicable heavy penalties.

<sup>70</sup> The only document Mr Ford had available to him during our meeting was the affidavit evidence of Mr Adam Carpenter sworn 24/3/2016. It did not contain any credit card contract nor contract documents. At the meeting, Mr Ford attempted to refer to the "card collection form" as the contract, but we promptly clarified that such document is not a contract to which Mr Ford agreed. In hindsight, Mr Ford had from the outset aligned with Piper Alderman and its counsel, Mr Hartford Davis, representing before the court that the said card collection form was the 'core' document in the proceedings. At the final hearing the said "collection form" was heavily relied upon by the lawyers purporting to be a 'written request' in entering a 'credit card' - a different case was presented, of which I was unaware. The final hearing was a 'hearing by ambush', pleaded contract, though never provided by the Plaintiff, and was eliminated as an issue.

<sup>71</sup> The statement can be provided upon request.

occasion before court, Mr Ford consistently made contrary statements, (evidenced by Court Transcripts), effectively that *'contract documents were provided on 12 of January 2015'*.

33. At the final hearing, the counsels, Mr Ford and Mr Hartford Davis, referred to Mr Ammer as their **"instructing solicitor"**. Mr Ford referred to the opposing solicitor<sup>72</sup> as **'my learned instructing solicitor, Mr Ammer'**<sup>73</sup>.
34. For further information see *'Self-Representation and Legal Representatives'* on page 36 in this report.

#### **(d) Court Attendances / Representations**

35. There had been numerous court mentions in the court proceedings. The **CIO** EDR process stayed the proceedings for approx. 6-8 months in 2015.
36. On all occasions, Piper Alderman misled the court:
- (a) Relying in the pleadings of the **SOC/ASOC** of a *"credit card contract"*, as a cause of action/a right to pursue a claim (The pleaded credit contract did not exist and was never ventilated at the final two-day hearing);
- (b) of their compliance of requests/notice to produce of the pleaded credit card contract, (paragraphs 1 in all requests/notices<sup>74</sup>):

- (i) **In court on 7/1/2015**: Mr Matthew Mennilli, solicitor, agreed to comply with the **RFBP** and the court granted Orders dated 7/1/15 and made orders for compliance with **RFBP** within 7 days.

(The Order to comply with **RFBP** - Para 1 - production of the pleaded credit card contract, among other relevant documents, was **never complied to date**);

- (ii) **In court on 27/10/2015**, due to non-compliance of Notice to Produce dated 10/2/2015, ("**NTP\_1**"), the court made an order for its compliance. Mr Matthew Mennilli, solicitor, agreed to comply to the order.

(The Order to comply with **NTP\_1** - Para 1, production of the pleaded credit card contract, among other relevant documents, was **never complied to date**);

- (iii) **In court on 17/12/2015**, Piper Alderman's Counsel, Mr Hartford Davis, deliberately misled the court that the **NTP\_1** was effectively *'all complied except for Para 2 and 3'*<sup>75</sup>. This was also represented in the Affidavit of Mr Ammer's sworn 17 November 2015. Mr Ammer deliberately made a false and misleading statement in his sworn affidavit by omitting their non-compliance to paragraph 1 (production of credit contract) of the **NTP\_1** and other requested documents. Mr Ammer states:

***'As at the time of swearing this affidavit, paragraphs 2 and 3 of the Notice to Produce remain in dispute between the parties.'***

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<sup>72</sup> Mr Ammer was not sitting at the bar table, he sat at the back of the courtroom throughout the two day final hearing. Piper Alderman's Paralegal/JP, Ms Miller, impersonated an instructing solicitor - Ms Anne Freeman at the entire two-day full hearing. The Counsel, Mr Hartford Davis referred to Ms Miller as his *'instructing solicitor'*. Ms Miller handled and tampered with my evidence and she had gave/created evidence whilst I was cross-examined.

<sup>73</sup> See Para. 35 page 25 of Court Transcript 18/7/2016. Mr Ford insisted that I engaged Mr Glynn in my matter, but Mr Ford never mentioned Mr Glynn as his "instructing solicitor".

<sup>74</sup> Standard timeframe to reply for a request/Notices to produce is usually within 14 days.

<sup>75</sup> Mr Nicholas Silva had appeared on my behalf, failing to notify the court of the misleading statement by Mr Hartford Davis (they knew each well having done the Bar together). After the court event I forwarded correspondence to Piper Alderman giving notice of such misleading representation by Mr Hartford Davis to which they did not reply.

(iv) In court on 17/12/2015, Para 2 and 3 in the **NTP\_1** were amended while the remaining paragraphs were kept the same. The said **NTP\_1** was redated 17/12/2015 ("**NTP\_2**") and handed up to court.

(The Order to comply with **NTP\_2** - Para 1, production of the pleaded credit card contract, among other relevant documents, was **never complied to date**);

(v) A notice to produce to court dated 24/3/2016, ("**NTP\_3**") was served on Piper Alderman. At the time, Mr Ford was involved in the matter and he had reviewed the said notice, where Para 1, still requested a production of the pleaded credit card contract. On 30/3/2016 at the interlocutory hearing, while at the bar table, Mr Ford handed me an envelope<sup>76</sup> which contained documents which he represented to me were documents from Piper Alderman in response to the **NTP\_3**.

The said documents provided were the same documents received on 12/1/2015. Such documents were not a credit card contract.

(Compliance with **NTP\_3** - Para 1, which sought production of the pleaded credit card contract, among other relevant documents, was **never complied, to date**).

37. See the **RFBP**, Notices to Produce and Orders for production in **Annexes "C" to "C.1"**. Also refer to '*Notices RE: Credit and Insurance Contract*' and table from page 42, and '*Representations of the Credit Card Contract and Insurance Contract*' on page 50 in this report.

#### **(e) Interlocutory Hearing.**

##### **(i) Hearing Vacated on Reliance of Counsels Representations/Submission.**

38. On 30 March 2016<sup>77</sup>, at the in interlocutory hearing, Magistrate Pierce granted to vacate the listed one day 7 April 2016 hearing<sup>78</sup> and allowed an additional hearing day, **on reliance of the representations made by Counsels, Mr Hartford Davis** (for the Plaintiff) and **Mr Ford** (my purported counsel). His Honour also relied on the representations in relation to the costs incurred by Credit Corp/Piper Alderman in the Affidavit of Piper Alderman Partner, Mr Ammer sworn 17/3/2016<sup>79</sup>.

##### **(ii) Issues Identified by Magistrate Pierce.**

39. Magistrate Pierce referred to the pleadings in the **ASOC** and the **FAD**, in particular Paragraph 3<sup>80</sup> in reply to the pleadings in **SOC/ASOC** and identified/highlighted the issues, in particular:  
(a) The **denial of entering a credit card contract**,

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<sup>76</sup> With hindsight, I believe that the documents Mr Ford handed to me on 30 March 2016 came from him and not from the Plaintiff/Piper Alderman. Those documents were simply copies of the documents in Mr Carpenter's affidavit (not a credit card contract). At the time, I was not aware of Mr Ford's penmanship, but on review of the envelope provided to me by Mr Ford, the writing on the envelope strongly resemble Mr Ford's writing. Available upon request.

<sup>77</sup> The court event was a direct result of Mr Ford's immediate advice at the first meeting with him on 23/2/2016 to amend my amended defence pleadings, where a notice of motion was subsequently filed to court.

<sup>78</sup> The court did not want to vacate the 7 April 2016 hearing and neither did I. Mr Ford, against my instructions, unbeknown to me at the time, had already made prior agreements with Mr Hartford Davis to vacate the said hearing and to extend the hearing to make it a two day hearing, protracting the proceedings.

<sup>79</sup> Mr Ammer gave false evidence in his affidavit dated 17/3/2016 in respect to their costs incurred and in regards to the cost of handwriting expert which Mr Ammer stated would cost between \$4,000 - \$5,700. The actual overall costs for the handwriting expert report along with Piper Alderman fees for the signature issue were about \$59,448 (according to Mr Ammer's sworn affidavit dated 15/8/2016.)

<sup>80</sup> Pleadings from original defence disputed the existence of a credit contract and the denial of entering into a credit contract. In respect to the **FAD**, I never sought to amend my Amended defence (all the defences I filed were without having the credit contract and credit insurance contract, which Credit Corp and its lawyers failed to provide to date, despite court orders). Mr Ford immediate and insistent advice from the outset, 23/2/2016, was that I amend my Amended defence.

- (b) The **issue of the existence of a credit card contract**, and
- (c) The **issue of unsolicited credit card**.

40. Magistrate Pierce extensively put the above matters to both counsels, Mr Hartford Davis and Mr Ford, stating: (*Emphasis in bold added*):

HIS HONOUR: '***... If those matters were able to be ventilated they would very likely result in the verdict of the defendant.***<sup>81</sup>

41. Further, Magistrate Pierce stated:

*'...It is always undesirable to have a matter go off without a fair hearing on the merits and to raise... those other matters that I just mentioned, **to not be able to raise them would prevent a fair hearing on the merits, there is no doubt about that***<sup>82</sup>.

*'...the underlying factual substrata she was aware of and the plaintiff was either aware, if it turns out what she says is true and if **she ventilates her case that is what we are concerned with**, that it is an issue. The plaintiff was either aware or in the case of what went on before the ombudsman, ought to have been aware and ought to have made itself aware of these things and as a result... I think that there has to be leave to file and serve the further amended defence...'*<sup>83</sup>

### **(iii) Wilful Misrepresentation of a Credit Contract.**

42. Piper Alderman and its Counsel, Mr Hartford Davis acted in gross dishonesty and deliberately misled his Honour Pierce, who sought clarification of what the contract was with St George Bank. (*Quote emphasis added*):

HIS HONOUR: '***So that was the contract with St George***'

HARTFORD-DAVIS: ***At that point, your honour, can I ask you to take up the affidavit of Mr Ammer, which I have read and turn to the credit card collection form which is at pp. 16 and 17***'

Mr Hartford Davis wilfully misled his Honour in respect to the signature issue on the card collection form, which Mr Hartford Davis referred to as '*the contract with St George*'. Paragraph 30 on page 26 of the court transcript dated 30/3/2016 states, (*emphasis in bold added*):

HARTFORD-DAVIS: ***This was part of the plaintiff's evidence in-chief served in March 2015 and not until February was it alleged that this document was signed by someone other than the plaintiff.***

Notice was given to Piper Alderman putting the signature on the card collection form and its authenticity on 4 February 2015. Note that Mr Hartford Davis refers that the Plaintiff signed the card collection form. Upon receipt of the card collection form, I promptly gave notice to Piper Alderman that I have never seen the collection form before and never seen nor had possession of any alleged credit card contract which they pleaded in their claim.

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<sup>81</sup> Page 60 Court Transcript 30/3/2016. Available upon request.

<sup>82</sup> Court Transcript 30/3/2016. Available upon request.

<sup>83</sup> Court Transcript 30/3/2016. Available upon request.

43. On 30 March 2016, **Piper Alderman and its counsel, Mr Hartford Davis** and my purported legal representative, **Mr Ford**<sup>84</sup> **grossly misled Magistrate Pierce in relation to the existence of the credit card contract.**
44. The Court Transcripts provide that both said counsels diverted, deflected and omitted the issue of the non-existence of the pleaded credit card contract. The said counsels referred to the 'Card Collection Form' as the 'core' document, focusing the court only on its signature and making the signature on the said form the only issue in dispute. Counsels wilfully misled the judge, withheld and suppressed information from the court that **the pleaded credit card contract does not exist and never produced nor provided to me**<sup>85</sup>.
45. Mr Ford made representations to His Honour, that a **contract was never provided** and notice of such issues were given to Credit Corp/Piper Alderman from the outset. However, in the same sentence Mr Ford distracts from the issue of the non-existence of credit card contract by referring the judge to not signing 'a credit card application'. Para 15-25 page 3 Court Transcript 30/3/2016. (Emphasis in added)

Mr Ford: *'But a further submission I'll be making shortly, your Honour, when I take your Honour to the materials is that the **plaintiff has been on notice of these complaints since at least February 2015.***'

His Honour: *'That is, by "these complaints" do you mean the unconscionability, et cetera?'*

Mr Ford: *'**No, your Honour,** not in the manner that I've articulated in that amended document that I proffer today **but in the nature of a complaint that she never received the contract, she didn't sign a credit card application.** The legal consequences that flow from those assertions I've just put on the record, when put through the prism of this ASIC legislation and Common Law and equitable principles drives me to the amendments that I've articulated at 10A to 10G of the further amended document.'*

46. Mr Ford makes a contrary statement to the above (Para 30 on page 5 of the Court Transcript 30/3/2016) giving false evidence at the bar table<sup>86</sup>, completely eliminating the issue of the non-existence of a credit card contract, stating:

Mr Ford: *'**Well, what we say, your Honour, was that the earliest she received the St George contract was 12 January 2015.***'

47. Mr Ford wilfully misled the court that I received contract documents on 12/1/2015 and deliberately misquotes my letters to the court. In my letter to Piper Alderman dated 4/2/2015, (quote emphasis added):

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<sup>84</sup> On review of the Court Transcript, I found out that Mr Ford went a frolic of his own, made false representations and gave false evidence effectively that '*contract documents were provided to me on 12/1/2015*'. I never gave such instructions and such statement is contrary to all my correspondences to Credit Corp, Certus Partners/Piper Alderman, affidavit evidence and documents seeking the pleaded credit card contract. There is no contract in Plaintiff's evidence. Mr Ford never asked me on all occasions on the stand under oath in court any questions about the credit card contract or whether I received any credit contract, this includes credit insurance contract.

<sup>85</sup> No credit contract or credit insurance contract were produced throughout the proceedings nor submitted in the evidence, despite requests/Notices to produce and Court orders to produce and subpoenas issued to St George Bank and Swann Insurance. The Plaintiff's pleading of "credit card contract" is misleading and fails strict requirements that a credit contract is to be in writing pursuant to rules in ss.12-20 of the *Consumer Credit Code*.

<sup>86</sup> This false evidence given by Mr Ford that contract is provided on 12/1/2015 is repeated at each court appearance by Mr Ford and in his written "Outlines" dated 30/3/2016 (interlocutory hearing) and 18/7/2016 (final court hearing) which he drafted and submitted to the court without my knowledge/review/instructions. Mr Ford's written Outlines contain false facts, rely on applicable laws and omit to state that pleaded credit card contract was never provided in Plaintiff's evidence. Magistrate Freund heavily relied on Mr Ford's false evidence and his written submissions in her judgment and in giving an indemnity costs order.

Mr Ford: "***I have made...provided to me,***" first sentence, "***The contract referred...in my possession,***" 4 February 2015.<sup>87</sup>

My said letter which Mr Ford maliciously misquotes, actually states:

***'The contract referred in your client's ASOC has never been in my possession. I have made it very clear to your client and have repeatedly requested such contract to be provided to me...'***<sup>88</sup>

48. Magistrate Pierce was only able to identify the issue put into dispute about the pleaded credit card contract because of my correspondences giving notice<sup>89</sup> and **not from the counsels**, who were wilfully misleading and diverting Magistrate Pierce from the real issue in dispute.

#### **(iv) General Card Collection Form.**

49. The Counsels, Mr Hartford Davis and Mr Ford, as officers of the court, wilfully failed their paramount duties to assist the court in clarifying what is a 'card collection form', which is nothing more than a bank's general card collection form, not an application, nor a contractual document nor an essential document required by the statutory laws regulating credit card contracts.
50. The said counsels deliberately placed his Honour in confusion about what is the contract and what is a card collection presented to him by both Counsels. His Honour was left to figure out what a card collection. An example of excerpts from the Court Transcript on 30/3/2016:
- (a) In relation to the Card Collection his Honour was left to his own to figure out the card collection form - no assistance of clarification by counsels. Note, Mr Hartford Davis had represented the form as the contract, (paragraph 42 above).

HIS HONOUR: 'Sorry, what's a collection form again?'

'... It is really a bit like an application...'

'...her signature on this particular document that has been put in evidence and which seems to be a little bit like an application for credit or an associated document if not formally an application...'

- (b) In relation to the contract, Piper Alderman and its counsel grossly misled His Honour to believe that a contract was put into evidence in Mr Carpenter's affidavit sworn 24/3/2015 and by the pleadings in the **ASOC**.

HIS HONOUR: '*..but para 3 of the amended claim asserts that there was a particular agreement with a very long number on it...*'<sup>90</sup>

#### **(v) Prior Agreement Between Counsels.**

51. As evidenced by the Court Transcript, His Honour Pierce granted an order to extend and postpone the hearing of 7 April 2016 based the representations of Mr Hartford Davis and Mr Ford.

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<sup>87</sup> Court Transcript 30/3/2016.

<sup>88</sup> Letter dated 4/2/2015 is available upon request.

<sup>89</sup> My numerous letters to Credit Corp and its lawyers put the existence of pleaded "credit card contract" in dispute.

<sup>90</sup> p.27 of Court Transcript 30/3/2016.



52. Piper Alderman's counsel, Mr Hartford Davis<sup>91</sup> and Mr Ford, unbeknownst to me, made prior agreements between them, to:
- (a) Vacate the 7 April 2016 Hearing<sup>92</sup>;
  - (b) Extend the one-day hearing to a two-day hearing<sup>93</sup>;
  - (c) Protract the proceedings for further four months. Credit Corp/Piper Alderman used that time to tailor and refine their case around the unoriginal photocopied non-contractual document, the card collection form<sup>94</sup>, to be the core document, and the signature on the said form, to be the material and the only issue in dispute between the parties at the final hearing<sup>95</sup>. Eliminating the real issue in dispute - the non-existence of the credit card contract.
  - (d) Represent to the court that the "card collection form" is the core document, focusing the court on the dispute of the signature on the said collection form, a premeditated plan to present the said issue to be the '*principal issue in dispute in these proceedings*'<sup>96</sup> at the final hearing;
  - (e) Grossly mislead his Honour Pierce to believe that a credit contract is in evidence, i.e. the card collection form.

**(vi) Costs Incurred after Interlocutory Hearing.**

53. Shortly after the court event on 30 March 2016, vacating the 7 April 2016 hearing, Piper Alderman incurred abominable gross costs, incurring costs to support their newly tailored facts/case theory:
- (a) to use the "card collection form" as the core material document and
  - (b) the said form's signature to be the material and only issue in dispute between the parties<sup>97</sup>.
54. Piper Alderman invoices<sup>98</sup> provide that 13 months into the proceedings, there were no attendances on the card collection form and the issue of the signature on the said form. No subpoenas or notices to produce were issued on the said issue until Mr Ford's involvement in February 2016, when Piper Alderman costs skyrocketed. Approximately after 13 months in the proceedings, Piper Alderman commenced attendances on the card collection form and its signature issue, issuing excessive subpoenas and notices to produce, collecting signatures that span for the period of 10 years. Notice of the signature issue was given to Piper Alderman as early as February 2015. Refer to '*Gross Costs/Overcharging and Unlawful Enrichment by Piper Alderman*' on page 69 in this report and see Costs Graph<sup>99</sup> in **Annexure "E"**.

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<sup>91</sup> I only became aware at court on 30/3/2016 that Mr Ford knew Mr Hartford Davis for years and agreed to his submissions to vacate the hearing and set aside two-day hearing. It was not disclosed to me prior the court that he had spoken to Mr Hartford Davis a few weeks before 30/3/2016, agreeing to vacate the hearing and sought to extend the one day hearing to two days.

<sup>92</sup> Despite my instructions to Mr Ford not to vacate the hearing date, Mr Ford promoted Mr Hartford Davis application to vacate the 7 April 2016 hearing. Mr Ford disregarded the option provided by the court to keep the said court date by having the matter part heard, in consideration of costs and case management.

<sup>93</sup> Later, both counsels premeditated not to ventilate at the final hearing the issues highlighted before his Honour Pierce nor would they ventilate the pleadings in the **ASOC** and **FAD**.

<sup>94</sup> Piper Alderman only made the "card collection form" significant upon the involvement of Mr Ford (See Piper Alderman's invoices in **Annexure "B.1"**). Piper Alderman was given notice as early February 2015 of the signature issue on the said form. There were no attendances in their invoices on such document nor they referred to it as to a 'core' document until Mr Ford came into this matter. Both counsels referred to the said document as a core document (Court Transcript 30/3/2016), omitting and removing the issue of the pleaded credit contract.

<sup>95</sup> Evidenced by Court Transcript of what was ventilated at the final hearing and submissions by Piper Alderman/Mr Ammer on 27/4/2018, heavily relying on a card collection form as material document - never referring nor relying on any credit card contract nor credit laws and legislation. Such representations of the card collection form and its signature as material core document and issue in dispute were never recorded nor mentioned in the Summary of the Plaintiff's Case dated 21/6/2016.

<sup>96</sup> Statement by Credit Corp/Piper Alderman's Counsel, James Willis in Court Transcript 29/8/2016 Para 40 p.4. Credit Corp/Piper Alderman never represented this to me throughout the proceedings.

<sup>97</sup> To circumvent the real issue of the denial of entering a contract and non-existence of credit contract and the contravention of statutory requirements (refer to relevant sections 12(1) and 13-21 of the *Credit Code; ASIC Act; TPA 1974 etc*) that credit contracts must be in writing.

<sup>98</sup> Refer to **Annexure "B"** invoices.

<sup>99</sup> See **Annexure "E"**- Graph; Also in **Annexure "D"** in my Submission dated 6/4/17, marked 'B'.

**(f) Final Hearing.**

**(i) Different Case Presented to that in Credit Corp's Claim.**

55. At the final two-day hearing on 18 and 19 July 2016, Piper Alderman, its Counsel, Mr Hartford-Davis<sup>100</sup> with my purported representatives, Mr Ford and Mr Glynn<sup>101</sup> presented a different case to what was pleaded in Credit Corp's claim, where the cause of action pleaded was a credit card contract. The case presented at the final hearing was the tailored to the card collection form as the material core document and its signature issue to be the material and the only issue in dispute. The case became a factual matter to be determined, based on a phone conversation that took place on 16 February 2006, the signing of the card collection form on 25 February 2006. (See Mr Hartford Davis' representation to court at the final hearing under '*Representations of Credit Corp... case*' from paragraph 58 below).
56. What was presented at the final hearing was not the case put to me in Credit Corp's claim. At the final hearing on 18 and 19 July 2016, I was ambushed by the Piper Alderman, its counsel and my purported legal representative Mr Ford and Mr Glynn who conspired to present a completely different case, eliminating the issues of the credit contract. (Evidenced by Court Transcripts ). The case became a factual circumstantial case about my possible whereabouts on 25/5/2006, a phone conversation on 16/2/2006 and card collection form as core document where the signature in dispute is the only issue ventilated.
57. Credit Corp's pleaded cause of action: a credit card contract, the issue of the existence of the credit contract put into dispute, that it did not exist, never produced in evidence or throughout the court proceedings, never provided to me despite court orders and notices and denial of entering any credit contract, along with the multiple breaches of credit laws<sup>102</sup> where the statutory penalties are in excess of \$6 million for such breaches - these matters were all deliberately omitted by the said lawyers, simply removed and eliminated at the final hearing, as if there was not issue with the credit contract between the parties.

**(ii) Representations of Credit Corp (Plaintiff) case.**

58. On the first day of the hearing on 18 July 2016, the Court Transcript provides that Mr Hartford Davis (Plaintiff) presented the case for both parties, as follows:

HARTFORD DAVIS: *'...para 3 an allegation that on 16 February 2006 the defendant entered into a credit card agreement with St George Bank... that's denied... **16 February is an important date.** I think it's uncontested, it's agreed between the parties that on 16 February there was a **phone conversation** between the defendant and St George Bank. The defendant gives limited evidence about what she says happened in that phone conversation. I think her evidence is that it was sometime in late February but she's put her phone records into evidence and they show that it was indeed 16 February... One of the bases on which this allegation is denied is that the credit card was unsolicited. That allegation in the defence, which I'll show your Honour in due course, is a **central area of dispute** which your Honour is going to have to resolve...<sup>103</sup>'*

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<sup>100</sup> Mr Hartford Davis, (admitted at the Bar in 2014 and a former employee of Piper Alderman), advertises himself as a complex commercial matters expert and a lecturer of contract/equity law (Tenth Floor Chambers webpage). However with Mr Ford, Mr Hartford Davis did not address the credit card contract and credit insurance contract pursuant to the strict statutory legislation, throughout the two-day hearing.

<sup>101</sup> Mr Glynn was retained on my matter on 12/7/2016 under Mr Ford's insistence that I retain his colleague Mr Glynn, whom I did not know and did not approach for his legal services. Submissions on Mr Ford and Mr Glynn will be lodged with **OSLC**.

<sup>102</sup> Including non-compliance with written requirement as per s.12(1) of the *Consumer Credit Code* (S.14(1) *National Credit Code*).

<sup>103</sup> Para 30 on p. 6 Court Transcript 18/7/2016.

HARTFORD DAVIS: *'Relevant to that allegation is another date, 25 February 2006. That is an **important date because that is the day that, the plaintiff says, the defendant attended St George's branch in Castle Hill and collected her credit card and signed a document that is going to be referred to by the parties as "the credit card collection form"**. That document is dated 25 February.'*<sup>104</sup>

### (iii) Representations of Assignment.

59. A valid assignment requires a primary document such as a credit contract to be assigned. In this case the counsels never identified/specified a credit card contract throughout the entire two-day hearing. **The credit card contract does not exist and this was made a non-issue by the collusion of the lawyers.** Mr Hartford-Davis simply states, grossly misleading the court. (Emphasis added):

HARTFORD DAVIS: *'... I don't need to take you through the assignment documents. Your Honour can just take it that the debt has been **validly assigned** and that **my client, Credit Corp, stands in the shoes of St George as at 2006...**'*<sup>105</sup> *'... **Credit Corp, the plaintiff, took over this debt in 2010...**'*<sup>106</sup>

See page **Annexure "L"** and page 76 in this report in respect to Credit Corp's chief witness/employee, Mr Adam Carpenter, examined in court at the final hearing as a witness in the shoes of St George Bank in 2006.

### (iv) Representations of the Defence Case by Credit Corp/Plaintiff's Counsel.

60. Credit Corp/Piper Alderman's Counsel presented the Defence case at the final hearing. Mr Ford did not present my case and allowed Mr Hartford Davis to make the opening address for the Defence case at the commencement of court proceedings.

HARTFORD DAVIS: *'In that case, can I just say this, that the defence, long as it is, really, upon proper analysis, relies on **five factual matters**. I say this without disrespect, it dresses up these five factual matters in different ways, according to the statutory provisions that are relied upon, but there are five. The first of them is, the account was unsolicited. The second is that no contractual documentation was provided. Both of those allegations are to be resolved, your Honour, in effect, by determining whether or not Ms Odtojan's signature appears on the **credit card collection form, because that constitutes a declaration both that she has made a written application and that the terms have been explained to her**. The third matter is really the responsible lending decision that I was addressing on your Honour before, and I don't need to say anything else about that. The fourth is an allegation about unauthorised contact with family members. The final factual matter that's raised in the defence is about credit card insurance, which was debited to this account on a monthly basis. Again, there is contemporaneous documentary evidence about that.'*<sup>107</sup>

### (v) Agreed Deletion of Witness' Statement ("**entered into a contract card contract**").

61. The first administrative attendance, by consent of the counsels, were in relation to the first witness', Credit Corp employee Mr A.Carpenter affidavit evidence. The deletion of the statement, "**entered into a credit card contract**".

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<sup>104</sup> *Ibid.* at Para 50 on p.6.

<sup>105</sup> *Ibid.* at Para 30 on p.7.

<sup>106</sup> *Ibid.* at Para 10 on p.8.

<sup>107</sup> *Ibid.* at Para 30 on p.9.

HARTFORD DAVIS: ‘..The first thing that isn't being read is at p26, using the numbers in the bottom righthand corner, at para 6, the words "entered into a credit card contract". Those words aren't read..’

HER HONOUR: Line 2, the words "entered into a credit card contract"

HARTFORD DAVIS: Yes, "entered into a credit card contract".

FORD: **All these matters are agreed unless I pipe up and say there's an issue.**

#### **(vi) Conduct and Representations of the Lawyers.**

62. At the final two day hearing, Piper Alderman, Mr Hartford-Davis, in collusion with my purported legal representatives, Mr Ford and Mr Glynn:

(a) Agreed to a version of Statement of Facts and Issues (“**ASFI**”) without my knowledge and consent.<sup>108</sup>

The counsels omitted to ventilate, identify/specify a credit card contract<sup>109</sup>. This includes the Credit Insurance Contract, which must be pursuant to the credit code;

(b) Circumvented applicable credit laws<sup>110</sup>

As officers of the court, their paramount duties, is to assist in the administration of justice to conduct a fair and adversarial hearing<sup>111</sup>;

(c) Did not ask the Plaintiff’s witnesses, the Bank employee, Mr Trevor Bowen, (“Mr Bowen”) and Plaintiff’s Credit Corp employee, Mr Adam Carpenter, (“Mr Carpenter”) during examination, to **identify, specify and/or refer to evidence to any credit card contract, credit insurance contract, amongst other material documents required by legislation**<sup>112</sup>;

(d) Presented the Plaintiff’s Case and eliminated my case.

Court Transcript identifies and solidifies the case was not a ‘fair and adversarial hearing’ and was a ‘hearing by ambush’, where the case presented by the lawyers is a different case that was put to me in Credit Corp’s claim. The hearing supported and presented the Credit Corp’s case of a card collection form as a core document. My case was not ventilated. Mr Ford was actively agreeing to remove/delete my affidavit evidence, never seeking my consent/instructions. I was ambushed about what case - the issues and pleadings would be ventilated at the final hearing.

(e) With no objection, Piper Alderman’s Counsel Mr Hartford Davis gave evidence at the Bar table, tampered with my evidence in open court and breached the inherent confidentiality

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<sup>108</sup> My purported legal representatives, Mr Ford and Mr Glynn agreed to facts and issue in the **SAFI** with the Plaintiff Lawyers without my instructions/knowledge, submitting to court a version of the **SAFI** different to what was represented to me. Material additions and omissions were made without my knowledge, among others, the contract issue, the issue pertaining to the existence of an alleged credit card contract, the insertion of the date 25/2/2006 (This date was never pleaded in **SOC/ASOC**). This date became a material date and relied in the judgment as the date when a ‘credit card was entered’. Further, the issue became whether I attended the bank, signed a card collection form, collected a credit card to determine whether a ‘credit card’ was entered. (Note: Not a credit card contract).

<sup>109</sup> In the **SOC/ASOC**, the contract is pleaded: ‘*contract number 4564 8511 0092 0368 (Contract)*’. The same definition is provided in Mr Carpenter’s sworn affidavit 24/3/2015. On 30/3/2016 Magistrate Pierce referred/stated there’s ‘*Para 3 of the amended claim asserts that there was a particular agreement with a very long number on it...*’ The counsels omitted to correct Magistrate Pierce and never assisted the court to clarify that such number is the credit card number and **not a contract /contract number**.

<sup>110</sup> See ‘*Background of Applicable Legislation*’ on p.31 in this report.

<sup>111</sup> Rule 3.1 of the *Uniform Conduct, Practice and CPD Rules for Solicitors 2015*; Part 4 of the *Legal Profession Uniform Conduct (Barristers) Rules 2015*.

<sup>112</sup> The credit contract, credit insurance contract and essential documents pursuant to strict credit laws.

and privileged information within the External Dispute Resolution, a breach of the express rules and guidelines of the **CIO** EDR process<sup>113</sup>:

- (i) During cross-examination, the Bank employee's Mr Trevor Bowen did not answer the question what 'F' stood for in the internal bank, 'Loans Diary' dated 16/2/2006. Mr Hartford-Davis, Counsel, took it upon himself to give evidence at the bar table stating before the court (quote emphasis added): *'The column on the right-hand side, at the top says, "Con" and then it's got a list of "F's". Mr Bowen wasn't sure about this **but it's obvious that "F" mean "finish"***<sup>114</sup>;
- (ii) During my cross-examination, Mr Hartford Davis asked me to circle poor quality photocopied signatures<sup>115</sup>. Mr Hartford Davis asked me:

*'Are you able to describe for her Honour what the different styles look like - perhaps it's easier if we do this, if I ask my instructing solicitor to give me a fresh piece of paper - doing your best, could you write the different versions of your signature on this piece of paper?'*<sup>116</sup>

Mr Hartford Davis asked his "instructing solicitor"<sup>117</sup> at the bar table, (Piper Alderman's paralegal/JP Ms Miller impersonating Ms Anne Freeman), to present a new set of documents with numbered signatures for Ms Miller to circled the signature corresponding to what I circled in the witness box. Ms Miller handled my evidence<sup>118</sup> and the said documents were then handed up to court as part of the evidence/court exhibit<sup>119</sup>;

- (iii) Disclosed information and what transpired in the Credit and Investments Ombudsman ("**CIO**"), External Dispute Resolution, ("EDR") not compelled by the court or the law.<sup>120</sup>
- (iv) Piper Alderman and its counsel, Mr Hartford Davis breached confidentiality of **CIO** EDR process by consistently referring to the **CIO** process, handing up a document obtained from the **CIO** EDR process. During cross-examination Mr Hartford Davis asked about my complaint and its contents submitted to the **CIO**<sup>121</sup>;
- (v) Mr Hartford Davis misled the court in relation to responsible lending in 2006, stating: *'responsible lending was not in the credit code back in 2006'* and *'responsible lending guidelines were introduced after the GFC and came into force in around 2011'*<sup>122</sup>.

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<sup>113</sup> The affidavit of Mr Matthew Mennilli (Piper Alderman Solicitor) sworn 27/10/2015, witnessed by Mr Ammer (Partner), provided the rules in respect to confidentiality of **CIO** process, (at Paragraph 6): *'Parts of the report marked "A" have been redacted because the rules governing the CIO (**CIO Rules**), specifically rule 32, provide that all information obtained through the CIO's processing of a complaint must not be disclosed unless that "disclosure is required by law or required or permitted by these Rules or CIOL's Constitution. An extract from the CIO Rules is annexed and marked "A.1".'* Despite Plaintiff's lawyers' knowledge of CIO rules, at the final hearing, Piper Alderman/Mr Ammer and its counsel, Mr Hartford-Davis, recklessly disregarded the CIO rules and guidelines and the inherent confidentiality.

<sup>114</sup> Para 25 on p. 147 Court Transcript 19/7/2016.

<sup>115</sup> The expert handwriting report result was 'inconclusive'. During the cross-examination, I was asked to review poorly photocopied signatures for the period: 2006 to 2016 and identify signatures that were not mine.

<sup>116</sup> Para 40 on p. 104 Court Transcript 19/7/2016.

<sup>117</sup> Which I later discovered was Piper Alderman/JP, Ms Natalie Miller. Ms Miller was impersonating a solicitor; Refer to p.86 in this report.

<sup>118</sup> On inspection of the court file, the question mark on my document was crossed out.

<sup>119</sup> Ms Miller has no obligations to the court. She is (i) an unqualified person not admitted as a legal practitioner and (ii) not an officer of the court. On review of court file, it was discovered that Ms Miller had circled another signature and crossed it out and had tampered with my evidence crossing out a question mark next to a circled signature I had circled during cross examination. In giving evidence and handling evidence, Ms Miller did not make any oath to the court. On review of the court file, no one would know Ms Miller was present at the court, as Mr Freeman was recorded as the instructing solicitor (who never attended court in the matter). The circled signatures on file looked like they were all my evidence. No one would know Ms Miller gave evidence and circled the numbered signatures and tampered with my evidence as Ms Miller was not recorded on the file and Piper Alderman and counsel never gave notice to the court that Ms Miller is not a solicitor.

<sup>120</sup> Confidentiality is an essential feature of ADR processes. Confidentiality is generally maintaining private and secret: all discussions; the contents of documents disclosed that will not be used as evidence; and information provided during the ADR process. Piper Alderman invoices dated 13/7/2016 and 16/7/2016 provide recorded attendances preparing questions about the **CIO** information and what transpired for cross examination at the final hearing.

<sup>121</sup> Breach of **CIO** Rules and Guideline. The inherent confidentiality of ADR/Mediation/EDR was breached.

<sup>122</sup> Para 5, p.9 Court Transcript 18/7/2016; Plaintiff's Counsel misled the court about responsible lending. Mr Hartford Davis statements is contrary to the following, applicable in 2006: *'The obligation on the part of financial institutions in*

(f) Agreed to delete/not read Witness' affidavit evidence<sup>123</sup>

Substantial deletions were made to my affidavit evidence<sup>124</sup>:

- (i) On 18/7/2016, Mr Ford agreed to the deletions in my affidavit evidence without obtaining my instructions:

HER HONOUR: *In terms of dealing with the objections, I'm assuming - is there anything not being read in relation to her statement?*

FORD: *Just some small - it will take five minutes.*

HARTFORD-DAVIS: *It won't make any difference to your Honour now.*

FORD: *We have agreement between counsel.*<sup>125</sup>

- (ii) On 19/7/2016, the final day of the final hearing, Mr Ford represents deletions to my affidavit evidence is by consent:

HARTFORD-DAVIS: *Your Honour, I think the first step is to deal with objections to the defendant's affidavit material and then call her.*

FORD: *I'm at vol 2, p 596, which appears at tab M. That's the first affidavit I read, which is Marie Jossane Odtojan, sworn 26 February 2016. The first agreed objection is on p 611, para 86 of the affidavit. Can I invite your Honour to go to the second-last line, after the word "mother", I don't read the words "breaching privacy laws [comma]". Over the page, para 89, p 612, I don't read 25 the second sentence, which commences with the words "Had SGB complied", all the way down to "past ten years [full stop]". All of that can be deleted and not read.*

HER HONOUR: *Is it all by consent?*

FORD: *By consent, your Honour. 93, the entirety of that para I don't read, so that can all be deleted.*

*Does your Honour need the original?*

HER HONOUR: *If not, I'll just attach it to my court copy. What's been happening so far is we've been tendering - the original is on the file, I think, when I initially saw the file and flicked through it.*

FORD: *She was acting for herself at that stage, so I think it was filed...*<sup>126</sup>

- (g) Agreed, on the evening of the first hearing day, on 18 July 2016, for Westpac Solicitor Felicity Booth, (a non-party to the proceedings), to produce the return of subpoena documents by direct email to Piper Alderman. The subpoena was issued on 15/7/2015<sup>127</sup>.

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**Australia to lend responsibly with respect to consumer credit largely arises under the Uniform Consumer Credit Code** (The Uniform Consumer Credit Code commenced in all Australian jurisdictions on 1 November 1996 by legislation passed in each State and Territory, for example, the Consumer Credit (Queensland) Act 1994.), ("UCCC") and under voluntary codes of conduct such as the Code of Banking Practice 2003 (amended 2004)... the duty to lend responsibly by assessing capacity to repay before lending is said to arise under section 70 which gives the court power to reopen unjust transactions... - Wilson, Therese, 'Responsible Lending or Restrictive Lending Practices? Balancing Concerns Regarding Over-Indebtedness with Addressing Financial Exclusion - The Future of Consumer Credit Regulation: Creative Approaches to Emerging Problems', Published 2008.

<sup>123</sup> The Counsels represented to the court that it has all been agreed. Mr Ford and Mr Glynn never sought my instructions of the deletion of witness affidavit evidence. Mr Ford misrepresented to court that it was agreed and he had sought instructions. (Court Transcript available upon request).

<sup>124</sup> Mr Ford was fully aware that no instructions were given by me nor sought from me by him or by Mr Glynn on this matter.

<sup>125</sup> From Para 5 on page 66 in the Court Transcript 18/7/2016.

<sup>126</sup> Para 15 to Para 45 on page 57 in the Court Transcript 19/7/2016. **Mr Ford deliberately misled the court** that I acted for myself at the time the said affidavit was filed when in fact he was engaged on my matter on 23/2/2016, where he had reviewed the said affidavit. I recently discovered that Mr Ford had tampered with my evidence and my witnesses' evidence (only three days from when I first met him).

<sup>127</sup> Piper Alderman represented in court at the review date, 21/6/2016, that all subpoenas were compiled. They subsequently issued a subpoena on Westpac sometime at 4:15pm on Friday 15/7/2016, one business day from the first hearing day on Monday 18/7/2016. On 18/7/2016, Piper Alderman/Mr Ammer represented that he '*made enquiries at the Registry and was advised that the documents appear to have been temporarily mislaid..*'. No such representations/record were made by court/court registry of such mislaid returned subpoena documents. The email dated 18/7/2016 and PDF properties are in **Annexure "I"**.

Such conduct is in breach of rule 6.6 and 6.9 Production by non-party of the Local Court Rules 2009.

- (h) **Agreed to suppress evidence from the court** - the original credit card<sup>128</sup>. The said card with an original signature was relevant in February 2006. The signature on the said original card does not match the signature in dispute on the photocopied card collection form dated 25/2/2006<sup>129</sup>.

The material evidence was suppressed from the court. Piper Alderman/Mr Ammer wilfully chose to incur gross costs on one photocopied signature, expending approximately \$60,000. Mr Ammer grossly misled the court/ Magistrate Pierce in his Affidavit sworn 17/3/2015<sup>130</sup>, having consulted a handwriting expert, stated in his sworn affidavit, (emphasis added):

***'Based upon enquiries I have made, I estimate that the likely costs involved in obtaining expert evidence of this nature would be in the range of \$4,000 to \$5,700'***<sup>131</sup>.

- (i) Agreed not to question the Plaintiff's witness of the integrity and authenticity of their business records. Mr Ford and Mr Glynn were on notice of the issues of the business documents. **Piper Alderman provided me fabricated and manipulated Credit Corp's account statement where the amount and interest, from 2010, were manipulated to align with the pleading of 8.66% interest rate**<sup>132</sup>. The said account statement and prior statements were annexed in my affidavit sworn 26/2/2016. The conduct of fabricating business financial documents is demonstrated in the Assessment of Costs Application filed in the Supreme Court by Piper Alderman<sup>133</sup>.

#### **(vii) Observations at the Final Hearing.**

63. At court on 18 and 19 July 2016, I observed that Mr Ammer Partner of Piper Alderman and five other male members of his team were present during the two-day hearing, which I believe to be Mr Brendan May, Mr Matthew Mennilli, and Mr Owen Nanlohy<sup>134</sup>, (law clerk at the time and recently admitted solicitor in December 2017) and another man along with Credit Corp's employee, Mr Carpenter<sup>135</sup>. They all sat at the back in the public seating of the court and they all witnessed Piper Alderman's paralegal/JP Ms Natalie Miller, impersonating a legal practitioner. They all had knowledge that Ms Miller was not a solicitor and that no notice was given to the court, to me and other parties in court that she was not a solicitor. The said lawyers/employees

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<sup>128</sup> Piper Alderman obtained the original credit card, which Mr Ford diligently followed up from me to give to Piper Alderman, asking me to deliver it immediately to his chambers. Once Mr Ford obtained the credit card, he never discussed it with me and I never saw it again. The original credit card was never put before the court throughout the two-day final hearing.

<sup>129</sup> In correspondence with attached notice to produce dated 25/5/2016, Mr Ammer asserts that the **'credit card is the subject of these proceedings'**.

<sup>130</sup> Piper Alderman chose to incur gross cost on the signature issue alone: Approx. \$28,262 on the expert report and approx. \$31,185 on a fishing expedition of signatures over the period of 2006 to 2016. This is done contrary to his sworn affidavit 17/3/2016 and in complete disregard of Magistrate Pierce's warnings of their already gross costs incurred as at 30/3/2016. Further, his Honour Pierce was misled on the costs presented to him as he considered such costs estimate which would have affected his decision in the direction to vacate the 7 April 2016 hearing and whether to allow an extra hearing day; See *'Gross Costs/Overcharging and Unlawful Enrichment of Piper Alderman'* p.69 in this report.

<sup>131</sup> In Mr Ammer's sworn affidavit 17/3/2016 on Para 16 p.6.

<sup>132</sup> Notice was put to the Credit Corp and its lawyers, Piper Alderman, from the outset of these proceedings, in my letter dated 4/2/2015, in relation to the tampering and manipulation of Credit Corp's account statements dated 12/1/2015, provided to me by Piper Alderman, did not match prior Credit Corp statements (x2). The interest rate from 2010, were changed to align with 8.66% interest rate, as per Credit Corp's claim. The said account statements are available upon request.

<sup>133</sup> See *'Supreme Court Assessment Application'* from page 86 in this report; See **Annexure "A.2"** and Annexure **"B.1"**.

<sup>134</sup> Law clerk at the time. Recently admitted solicitor in December 2017.

<sup>135</sup> In contrast, Mr Ford specifically directed me not to bring anyone, further ensuring with Mr Glynn, that Mr Artem Bryl, ("Mr Bryl"), my support person and witness, was out of the courtroom during the final hearing. Mr Bryl observed all the lawyers and other parties outside the courtroom.

also witnessed Ms Miller handling/tampering my evidence and giving new evidence which was handed up to be part of the court file/exhibit.

64. Throughout the entire two-day hearing:

- (a) Ms Miller sat with Counsel at the bar table, without notice to the court and opposing party that Ms Miller was not a legal practitioner. Piper Alderman's Counsel, Mr Hartford Davis, wilfully represented Ms Miller as '*my instructing solicitor*' before the court. (Court Transcripts available upon request);
- (b) Mr Ammer, Partner of Piper Alderman never sat at the bar table. He sat with his team at the back of the courtroom, in the public seating section. Mr Ammer charged full rates for such attendance<sup>136</sup> whilst Ms Miller impersonated a solicitor at the bar table instructing counsel and handling/giving evidence<sup>137</sup>.

**(e) Judgment.**

65. The presiding Magistrate Sharon Freund, categorised this case as '*credit card contract*' in her judgment, however, at the final hearing on 18 and 19 July 2016, (as per Court Transcripts):

- (a) A different case was presented by the lawyers to what was pleaded in Credit Corp's **SOC/ASOC**. The court transcripts provide what actually transpired and was presented at the final hearing. **The case presented at the final hearing was not a 'credit card contract' case**. The case was determined on factual and circumstantial basis and not pursuant to any credit card contract and legislation.
- (b) Throughout the two-day hearing, Magistrate Freund **never sought any clarification of what Credit Corp pleaded and represented as the credit card contract**.
- (c) **No credit card contract nor credit insurance contract was identified and/or specified**<sup>138</sup> by:
  - (i) Piper Alderman Lawyers, its counsel Mr Hartford Davis;
  - (ii) My purported legal representatives, Mr Ford and Mr Glynn;
  - (iii) Any of the witnesses;
  - (iv) Magistrate Freund asked no question about the pleaded contract in the **ASOC**;
- (c) There was **no evidence admitted or production** of a Credit Card Contract including a Credit Insurance Contract or any essential documents required by credit laws;
- (d) The issues Magistrate Pierce extensively put to both counsels, Mr Hartford Davis and Mr Ford were never ventilated<sup>139</sup>. The issues, in particular: (i) The **issue of the existence of the credit card contract, denial of entering the pleaded credit card contract**; and (ii) The **unsolicited credit card** and the pleadings in the **FAD**, in particular Paragraph 3<sup>140</sup>;
- (e) The first paragraph of the judgment is contrary to the Plaintiff's pleadings in the **ASOC**<sup>141</sup>.
- (f) The judgment is emotive and does not cite relevant sections (12-37 etc.) of the Credit Code regulating credit contracts or any other applicable legislation. The judgment superficially refers to s12DL of the *ASIC Act*, which aligns with Plaintiff's theory, however, on review of the elements to satisfy s12DL of the *ASIC Act*, the facts in this case cannot possibly satisfy the elements of the said legislation. A **"card collection form" cannot constitute a**

<sup>136</sup> Refer to Piper Alderman's invoice in **Annexure "B.1"**

<sup>137</sup> For further information on Ms Miller, see page 86 in this report.

<sup>138</sup> Court transcripts 18 and 19 July 2016 is available upon request.

<sup>139</sup> See '*Interlocutory Hearing*' on page 13 in this report; Magistrate Pierce relied on the representations of both counsels to ventilate such issues at the final hearing and vacated the one day 7 April 2016 hearing and agreed to both Counsel's submission to extend a hearing to a two day hearing.

<sup>140</sup> Pleading from original defence, which disputes the existence of a credit contract and contains the denial of entering into a credit contract. In relation to the **FAD** I never sought to amend my amended defence. At all times to date, I have been prejudiced, all the defences I filed were without receipt of Credit Corp's pleaded credit contract, including any credit insurance contract - Credit Corp and its lawyers had full knowledge that they did not have any credit card contract and they wilfully misled the court and me in their pleadings. Mr Ford immediate and insistent advice from the outset was that I amend my amended defence, which I am now aware was to protract the proceedings and sabotage my case (supported by documents, materials and the conduct of Mr Ford and his colleagues he insisted I engaged in my matter).

<sup>141</sup> Refer to Paragraph 66 (below) in this report.



**written request under s12DL.** The Bank on 16/2/2006, prior to 25/2/2006; already opened an account;

- (g) The judgment does not specify and/or identify, pursuant to the law:
  - (i) the credit card contract;
  - (ii) credit card insurance contract;
  - (iii) any other contract documents pursuant to legislation, such as pre-contractual / disclosure documents (S.14 of the *Credit Code*).
- (h) The judgment superficially refers to a "credit card contract" which does not exist. Effectively Magistrate Freund is referring to a non-existing "credit card contract" never presented to her and not in evidence but she refers to it as if it exists, expressly stating '*8.66% pursuant to the credit card contract*'<sup>142</sup>.
- (i) The judgment mostly in its entirety, consists of the Plaintiff's written 'Submissions' dated 19/7/2016 filed on 19/7/2016 and Plaintiff's 'Submissions in reply' dated 19/7/2016 filed on 1/8/2016. (Both documents were purportedly to be drafted by Mr Hartford Davis, however, Piper Alderman's attendances in the invoices and other materials strongly indicate that the submissions were written by Piper Alderman's law clerk, Mr Nanlohy, who impersonated barrister Mr James Willis at court on 16/8/2016<sup>143</sup>).
- (j) The Plaintiffs written submissions were written to mislead the reader, referring to a non-existing credit card contract as if it exists, that it was produced/admitted in evidence and is a not an issue. The said misleading written submissions materially became the judgment of Magistrate Freund. It is believed on reasonable grounds, that the judgment is substantially derived from the Plaintiff's submissions, written by the law clerk, Mr Nanlohy<sup>144</sup>.

66. The Presiding Magistrate at the final two-day hearing, **Magistrate Freund, changed the pleadings of the claim in her judgment** dated 16 August 2016. The first paragraph in the judgment **presents a completely different case and eliminates the cause of action of a 'credit card contract' pleaded in the claim, (SOC/ASOC)**. Magistrate Freund changed the pleadings and recording the following in her judgment:

*'By Amended Statement of Claim 7 January 2015, Credit Corp Services Pty Limited ("Credit Corp") claims the sum of \$47,597.74 ("the Debt") together with interest, from Ms Marie Odtojan, for a debt arising from a credit card ("the Credit Card") issued to Mr Odtojan by St George Bank Ltd ("St George Bank") on 25 February 2006.'*<sup>145</sup>

- (a) Further, Magistrate Freund records in her judgment about the issue of attending the bank branch:

*'Did Ms Odtojan attend St George Bank Castle Hill Branch on 25 February 2006 and execute the "Card Collection/ Overdraft/Get Set Checklist Declaration" form on that same date and receive the Credit Card?'*<sup>146</sup>

- (c) The judgment records a different case contrary to the pleadings in the Further Amended Defence, ("FAD")<sup>147</sup>, recording that the 'heart' of my defence is as follows:

<sup>142</sup> Judgment dated 16/8/2016 by Magistrate S.Freund, p.57.

<sup>143</sup> For details on Mr Nanlohy's refer to p.82 in this report; Also see **Annexure "K"** and **Annexure "M(b)"** - Piper Alderman website advertisement/promotion of solicitors stating they drafted submissions when they were law clerks/law graduates.

<sup>144</sup> *Ibid.*

<sup>145</sup> Judgment of Magistrate S. Freund dated 16/8/2016, Para. 1, p.1.

<sup>146</sup> Judgment made by Magistrate S.Freund, Para. 6, p.2.

<sup>147</sup> Refer to **FAD** in **Annexure "G"**.

*'The heart of Ms Odtojan's defence is that she denies attending the St George Castle Hill Branch on 25 February 2006 and signing the "Card Collection/ Overdraft/Get Set Checklist declaration" form on that day, when it is alleged by Credit Corp that she collected the Credit Card...'*<sup>148</sup>

- (c) On review of Magistrate Freund's judgment she clearly determined the case not on the basis of a credit card contract governed by strict credit laws. Magistrate Freund heavily relied on a 'card collection form' as a material document to determine the case, not a credit contract as pleaded in the ASOC. This is not the case put to me.
- (d) Magistrate Freund **superficially** refers to some "credit card contract" in her judgment as if it exists and refers to it as if it was produced/admitted in evidence. **Magistrate Freund is aware that at the final hearing no such credit contract was identified, specified, reviewed, ventilated nor admitted in evidence or produced under subpoena or throughout the court proceedings. None of the four witnesses were asked to give evidence to specify and identity a credit card contract**<sup>149</sup> This applies to a credit insurance contract, which does not exist.

### **(g) Presiding Magistrate Sharon Freund at Final hearing.**

67. Magistrate Freund:

- (a) **Changed the pleadings in the ASOC and the Defence in her judgment.** The judgment recorded that the heart of my defence was something unbeknownst to me (not pleaded in the **FAD**). Court Transcript shows what transpired at the final hearing and it was not the case put to me in the **ASOC** where a claim was alleged to be pursuant to a credit card contract;
- (b) Expressly records the interest of '8.66% pursuant to the credit card contract'<sup>150</sup> in her judgment, however, **such statement is contrary to the evidence put before court, where Credit Corp employee affidavit and under oath states that the said interest of 8.66% was applied through their own discretion.** There was no credit card contract presented nor produced to the court that provides the interest rate of 8.66%;
- (c) On 16/8/2016, **Magistrate Freund specifically requested for the availability of Mr Ford to appear at cost argument hearing.** Magistrate Freund adjourned the court on 16/8/2016 to another date, on 29/8/2016 to accommodate Mr Ford. (Magistrate Freund never sought for the appearance of Credit Corp/Piper Alderman's counsel. Both parties were represented on 16/8/2016. However, Magistrate Freund was only concerned about Mr Ford's availability<sup>151</sup>).
- (d) On 29/8/2016, at the cost argument hearing, **Magistrate Freund only sought and relied on Mr Ford giving false evidence at the bar table,** that contract documents were received on 12/1/2015. No evidence was sought from me or from any other witness which is contrary to Mr Ford's statement at the bar table. Mr Ford's statement is contrary to my

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<sup>148</sup> Judgment dated 16/8/2016 made by Magistrate S.Freund, Para. 7 p.4; This was never the 'heart of my case'. Mr Ford and Mr Glynn agreed with Piper Alderman of the facts and issues in the **SAFI** without my knowledge. The extensive Further Amended Defence of 11 pages was reduced to denying 'attending the St George Bank' and signing a 'card collection form', not a contractual document. The issues of pleaded alleged credit contract and credit laws were never ventilated at the hearing.

<sup>149</sup> Mr Adam Carpenter, employee/chief witness of Credit Corp committed perjury in stating that interest is pursuant to a contract when no such contract exists and the statement contrary Credit Corp correspondence dated 20/5/15 stating that **'no contract is available'**, his own representations to me on the phone sometime in June 2015, correspondences and communications with the bank etc. (Refer to '*Representations of the Credit Card Contract and Insurance Contract*' on p.50 in this report.

<sup>150</sup> Judgment dated 16/8/2016 by Magistrate S.Freund, p.57.

<sup>151</sup> Court Transcript on 16/8/2016 is available upon request.

affidavit evidence sworn 26/2/2016, stating I never seen such document and 'offer' referred everywhere in the general bank's brochure of conditions of use<sup>152</sup>.

The extent of Mr Ford's argument was effectively 'it is for the cost assessor'<sup>153</sup> showing his deliberate and malicious intentional negligence to ensure costs/indemnity were awarded without any argument depriving me my right to put my case and argue.

Mr Ford and Mr Glynn intentionally withheld material court documents from me - the affidavit of Mr Ammer sworn 15/8/2016 with exhibit documents, depriving me the ability to reply and be aware of the issues raised. I was not aware of the costs and the applications the other side would be making to the court. Mr Ford and Mr Glynn withheld the said court documents from me after the cost argument hearing (29/8/2016) and after the expiry of the critical 28-day timeframe to appeal (13/9/2016). I finally received the said court documents despite constant requests, sometime on 20 September 2016.

(e) On Court Transcript on 16/8/2016 and 29/8/2016, **Magistrate Freund refers to two different people appearing before the court at different court dates, as barrister Mr James Willis**. Stating the following:

- On 16 August 2016, at court: (*Emphasis added*):

HER HONOUR: "... **Mr Willis**, but as Mr Ford is not here, I'm not going..."<sup>154</sup>

[Mr Nanlohy impersonating Mr Willis] "**Yes, your Honour.**"

HER HONOUR: "... *Did everyone say they're available on the 29<sup>th</sup>...*"<sup>155</sup>

[Mr Nanlohy impersonating Mr Willis]: "**That's suitable.**"

- On 29 August 2016, the real Mr Willis, (barrister), appeared at the cost argument hearing. Mr Willis acknowledged **he did not appear at court on 16 August 2016**. (*Emphasis in added*):

HER HONOUR: "*Great. Thank you. I did make comments on the last occasion--*"<sup>156</sup>

WILLIS: "**Yes. I wasn't here.** Yes..."

HER HONOUR: "**No, I know you weren't here**, but my preference is not to go through and read through taxable invoices. The Court is busy enough and we really don't need further stress."<sup>157</sup>

(f) **Recorded in the judgment:**

(i) that my Firm was 'instructing' Mr Ford at the final hearing and at the cost argument hearing, when Magistrate Freund's handwritten record on the court cover sheet on the commencement of final hearing on 18/7/16 records: '**N.Ford Inst Tom Glynn's**'<sup>158</sup>,

<sup>152</sup> See 'Notices RE: Credit and Insurance Contract' on page 42 in this report.

<sup>153</sup> Court transcript shows that Mr Ford was presenting to the court Credit Corp/Piper Alderman's submissions/applications and was well aware of the contents in the affidavit of Mr Ammer sworn 15/8/2016 and its exhibits (the material document he maliciously withheld from me and did not bring with him at the court hearing).

<sup>154</sup> Para 5-10 Page 2 Court Transcript 16/8/2016.

<sup>155</sup> *Ibid* at Para 45-50 Page 3.

<sup>156</sup> Para 5-10 Page 3 Court Transcript 29/8/2016.

<sup>157</sup> Magistrate Freund gave costs and indemnity order **without knowing the gross costs incurred and on the basis of Mr Ford's false evidence given at the bar table, that the contract documents were provided on 12/1/2015, which was never my case**. I never gave such instructions and evidence. Mr Ford solely gave false evidence before court at the bar table and in his written submissions. Magistrate Freund recorded her reliance on Mr Ford's evidence in judgment dated 16/8/2016 and in the cost judgment dated 2/9/2016.

<sup>158</sup> Refer to court cover sheet attached to my letter to Magistrate Freund dated 29/8/2017 in **Annexure "C.2"**; The court cover sheet is also attached in my submission dated 16/5/2018 in **Annexure "D"**.

notwithstanding such record, Magistrate Freund record in her judgment '**Mr Nicholas Ford, barrister instructed by Odtojan Bryl Lawyers lawyers for the Defendant**';

(ii) '**Mr Hartford Davis, barrister instructed by Ms Freeman of Piper Alderman solicitors for the Plaintiff**'. Piper Alderman and its counsel are well aware that Ms Natalie Miller, Paralegal/JP, appeared at the entire two day final hearing with counsel, Mr Hartford Davis. Ms Freeman never appeared nor attended court in these proceedings. Piper Alderman did nothing to correct the recording on the judgment nor gave any notice to the court or other party.

68. Notice was put to Magistrate Freund of the incorrect recordings on the judgments, which Mr Ford and Mr Glynn wilfully failed to correct despite my notice to them. The court amended the cover of the judgment by crossing out my firm's name and inserting Mr Glynn. **Notice was also given to the court and Magistrate Freund about Ms Miller**. There was no response to the matter and to date, the recording on the judgment still remains: '**Mr Hartford Davis, barrister instructed by Ms Freeman of Piper Alderman solicitors for the Plaintiff**'.
69. Correspondences were exchanged with the court directed at Magistrate Freund giving notice of the issues, incorrect recordings and in particular the clarification of what Magistrate Freund referred as the credit card contract in her judgment, where all my purported legal representatives remain silent when asked to identify/specify the credit contact referred in the judgment and what they had presented to the court without referring to a contract which did not exist. Magistrate Freund did not respond. To date Magistrate Freund has not addressed what credit card contract she refers to in her judgment.
70. On or about 14 August 2016, I discovered by chance via the online registry that the matter was listed for court on 16/8/2016. I discovered the proceedings were listed as a "*criminal*" proceeding.
71. The following observations were made during court proceedings under Presiding Magistrate Sharon Freund, in her Honour's court and her management of the proceedings:
- (a) Court Transcript shows counsels wilfully and deliberately giving evidence at the bar table which were accepted by Magistrate Freund. Such as Mr Hartford Davis answering on behalf of the bank employee witness, Mr Trevor Bowen, in relation to what "F" stands for in the bank's internal 'loans diary' which Mr Bowen stated 'he did not know'. Mr Hartford Davis effectively answered for Mr Bowen stating 'F stands for finish';
  - (b) Counsel Mr Harford Davis directed his 'instructing solicitor', Ms Miller, paralegal/JP<sup>159</sup>, to present a new set of documents with numbered signatures and create evidence by circling the numbered signatures to those I circled in the witness box during cross examination. The said documents were then handed to court as part of court exhibit/file. **This was allowed by Magistrate Freund** with no objects from my purported legal representatives, Mr Ford and Mr Glynn;
  - (c) On 29/8/2016, at the cost argument hearing, Magistrate Freund solely relies on Mr Ford's false evidence at the bar table that '*contract documents were never provided under 12/1/2015*' which contradicts my affidavit evidence sworn 26/2/2016 and to written submission of what i had inserted never received 'offer' or any 'pre contractual documents' nor any essential documents required by law. Magistrate Freund determined cost on Mr Ford's representation at the bar table, that I had contract documents when an offer of compromise was provided to me and granted full costs and indemnity order against me.

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<sup>159</sup> Ms Miller is not on record, she has no responsibility/accountability to the court as a solicitor/officer of the court and was not sworn before court to handle and give evidence in court; See further information on Ms Miller on page 86 in this report.

- (d) Magistrate Freund granted full claim in her judgment and costs, never clarifying what the pleaded credit contract is in the claim. Magistrate Freund never clarified, identified, and specified any credit card contract or credit insurance contract throughout the entire two-day final hearing.
- (e) On 19/7/2016, in court during cross-examination, the court officer interfered with me giving evidence during cross-examination. The said officer interrupted me whilst giving evidence, asking for the pen to be returned to her as if it was the only pen available to her and I needed the pen to give evidence as Mr Hartford Davis asked me to circle signatures which was not mine from poorly photocopied signatures<sup>160</sup>;
- (f) Disregarded the result of the expert handwriting report which reviewed signatures for the period of 10 years (2006 -2018) notwithstanding;
- (g) Disregarded my affidavit evidence and editions I made in the written submission<sup>161</sup> contradicting Mr Ford's false evidence given before court at the bar table that 'contract documentations were received on 12/1/2015'.

**(i) Current Events/Conduct.**

- 72. On 9 January 2018, Piper Alderman filed a Costs Assessment Application, ("**CAA**"), which attached fabricated, false and manipulated cost attendances/particulars, for the Supreme Court Assessment of Costs process. Notice was given to Piper Alderman/Partners: Mr Ammer and Ms Freeman of the issues in the said application, from 19/12/2017.<sup>162</sup> To date, Piper Alderman/partners: Mr Ammer and Ms Freeman had not addressed the issues raised.
- 73. Notices of issues were given to Manager, Costs Assessment, Mr Brendan Bellach, the cost assessor, Mr Peter Rosier and Piper Alderman of the fabricated cost attendances in the **CAA**, including obtaining judgment and indemnity costs by unlawful means through collusion and fraud, perverting the course of justice, impersonation of legal practitioner by paralegal and law clerk, and objections to Mr Rosier being a cost assessment based on prior conduct of assessment he conducted on my purported legal representatives<sup>163</sup>.
- 74. Notices were also given to:
  - (a) Principal Registrar D'Aeth of the fraudulent cost attendances in the **CAA**, Mr Bellach conduct of refusing to assign an independent cost assessor and Mr Rosier's conflict of interest. Mr D'Aeth ignored and deflected all the issues and stated on 28 March 2018: *'The outcome or substantive content of the other costs assessments were not disclosed or discussed in any way. Even if such a breach were to be established, the MCA [Manager, Costs Assessment] is protected from any liability by operation of law'*;
  - (b) Head of Costs Committee Judge Brereton and
  - (c) Chief Justice Bathurst. All were on notice of the issues and the issue of assignment of Mr Rosier as I had reasonable grounds to believe Mr Rosier had a vested interest in this matter based on my previous dealings with him in the matters of Mr Glynn and Mr Ford<sup>164</sup>.

<sup>160</sup> On review of the court files, the exhibit sheet was typed on 18/7/2016 when the Credit Corp witness was examined and on 19/7/2016 when I was examined to give evidence, the exhibit sheet was handwritten.

<sup>161</sup> Refer to '*Representations of the Credit Card Contract...*' table No.23 on page 58 in this report.

<sup>162</sup> See '*Supreme Court - Assessment Application*' p.90 in this report.

<sup>163</sup> Refer to report on P.W.Rosier to OLSC (Ref.No.54563); Mr Rosier accepted fraudulent account statements. Mr Ford wilfully recorded me as the 'instructing solicitor' on his statement where it is Mr Glynn and recorded payments such as cheque payment from my firm when he received payment from Mr Glynn's trust account. Mr Glynn is not recorded in his account statement. Mr Rosier asked no questions from Mr Ford throughout his assessment on the matter. He held onto Mr Ford and Mr Glynn's assessments against them for 5 months.

<sup>164</sup> Mr Rosier did costs assessment of Mr Glynn and Mr Ford and made no enquiries/did not put any questions to my purported legal representatives despite having received documents from me that they gave false evidence at the bar table, filed forged documents, breached trust account obligations and multiple provisions of *the LPUL*.

75. Despite my notices to the above-mentioned parties, no action was taken, no enquiries were made, and no clarifications were sought.<sup>165</sup> **Piper Alderman/Mr Ammer was not asked to respond nor address the serious issues raised.**
76. Piper Alderman/Partner, Mr Ammer asserted in his submission dated 27/4/2018 in the Assessment of Cost process justifying the gross costs incurred by Piper Alderman were on the basis that the signature on a photocopied unoriginal card collection form<sup>166</sup> was effectively **material to prove their case - their claim**. Such statement is contrary to the: (i) pleaded cause of action in the **ASOC** - credit card contract; (ii) Credit laws and (iii) Credit Corp/Plaintiff own summary of the case filed in court on 21/6/16 - where no such issue was even mentioned.
77. On 28 May 2018 I received the determination of Mr Peter Rosier, which determined costs based on falsified costs attendances in the **CAA** filed by Piper Alderman/Mr Ammer and on Mr Rosier's opinions with no reference to any supporting materials/invoices and Court Transcripts. Despite exhaustive notices of issues put to Mr Rosier, Piper Alderman, and Manager Cost Assessments Mr Bellach from the outset as early as 19/12/2017, the issues of falsified cost attendances were never addressed. (Refer to **Annexure "D"** and see report on P.W.Rosier to **OLSC** No.54563).

Refer to ' *Supreme Court -Cost Assessment Process* ' on page 90 in this report.

## **ii. Credit Corp (Plaintiff's) Claim**

78. The Statement of Claim ("**SOC**") and Amended **SOC** ("**ASOC**"), filed by Credit Corp and its lawyer, expressly pleaded a '**credit card contract/agreement**' as a material fact<sup>167</sup> and pleaded it as the cause of action to give rise to a legal right to pursue an alleged debt, an amount of approximately \$40,000, inclusive of interest and insurance premiums.
79. Credit Corp lawyers: Piper Alderman Lawyers and Certus Partners, as court officers, made an express representation through their pleadings in the **SOC/ASOC** that the credit card contract exists<sup>168</sup> and that a right to pursue the pleaded alleged debt is under credit contract which is governed by strict credit laws and legislation.
80. The credit card contract is pleaded in the **SOC/ASOC** as follows:
- On or about 16 February 2006 the defendant entered into a credit card agreement, agreement number 4564851100920368<sup>169</sup> ("the contract") with the St George Bank Limited.***
81. The **ASOC** referred and pleaded a credit card contract in paragraphs 3, 4, 5 and 8<sup>170</sup>. There were no pleadings to any provisions/clauses alleging a default or breach of their said pleaded contract.
82. The pleadings in the **SOC/ASOC** fundamentally determine the conduct of the proceedings,<sup>171</sup> setting out the core parameters in which the parties identify the **real issues in dispute**.<sup>172</sup>

<sup>165</sup> Refer to report on P.W.Rosier to OLSC (Ref.No.54563).

<sup>166</sup> The expert report result in respect to the signature on the "card collection form" was 'inconclusive. The onus to prove fraud is on the person making the allegation. Fraud was not pleaded.

<sup>167</sup> *Gunns Ltd v Mar* [2005] VSC 251 at [31] per Bongiorno J. - 'The function of statement of claim is to set out with sufficient clarity the case which the defendant must meet'.

<sup>168</sup> Legal practitioners are not mere mouthpiece for their client, due diligence and prudence is exercised when drafting pleadings in claim and if a documents is pleaded as a material fact that it will be relied by all party reading the pleadings of the claim that it exist and available. 'Practitioners act with 'competence' in their dealings with the court thus acting competently is part of the practitioner's duty to the court.- Lamb A, Littrich J, *Lawyers in Australia* (The Federation Press, Sydney, 2nd Ed, 2011) p.323.

<sup>169</sup> This is **not** an agreement number, but the credit card number on a credit card; I believe this is a standard pleading, possibly used systemically to mislead courts and consumers/opposing parties and Credit Corp/Piper Alderman make such pleadings regardless whether a credit contract exists or not.

<sup>170</sup> Out of 9 paragraphs in the **ASOC**.

83. Credit Corp and its lawyers, Piper Alderman and Certus Partners made an express false pretence<sup>173</sup> - pleading a credit card contract, with deliberate and reckless intent to grossly mislead and deceive the court and me, from the outset.
84. Piper Alderman and its counsel, Mr Hartford Davis made repeated false representations<sup>174</sup> at the court to support the false claim where no cause of action pursuant to a pleaded "credit card contract" existed.

### **iii. Background of Applicable Legislation**

#### **(a) Current legislation**

85. Credit Contracts and Credit Insurance Contracts are governed by strict legislative requirements with heavy penalties for non-compliance.<sup>175</sup>
86. '*Credit cards or continuing credit contracts... in the Consumer Credit Code are regulated contracts. This means that very strict laws apply to these contracts.*'<sup>176</sup>
87. '*The National Consumer Credit Protection Act 2009 ("NCCP") and Regulations make up the consumer protection law for credit in Australia ("the Credit Law")'. It is Commonwealth legislation*'<sup>177</sup>.
88. The Credit Law '*includes the **National Consumer Protection (Transitional and Consequential Provisions) Act 2009. This Act sets out among other things, how contracts that are already in force prior to 1 July 2010 will be treated under the new Credit Law***'.<sup>178</sup> (Emphasis added).
89. The former *Uniform Consumer Credit Code* or '*UCCC*', ('*the Code*')<sup>179</sup> was transferred to the Commonwealth and the amended Code is now called the *National Credit Code* ('*NCC*') and forms Schedule 1 of the *NCCP*<sup>180</sup>.
90. '*As of 1 July 2010 all credit contract subject to the Code will be subject to the National Consumer Code.... These are also referred to as 'regulated credit contract*'.<sup>181</sup>
91. A credit contract is '*a contract between debtor and a credit provider setting out the terms on which credit is or may be provided*' and is defined in section 4 Schedule 1 of the *National Credit Code (Cth)*.

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<sup>171</sup> In identifying the real issues the parties can work towards finality of the dispute, either by negotiation or via a fair and adversarial court hearing where the core issues are determined by the court, according to the applicable law - *Case management of civil proceedings in the Local Court, 3.3 This practice note describes the practice of the Local Court in managing civil proceedings so as to achieve the just, quick and cheap resolution of the real issues in the proceedings: s 56(1) Civil Procedure Act.*

<sup>172</sup> On 30/3/2016, Magistrate Pierce reviewed the pleadings in **ASOC** and defence noting that Para 3 in my Amended Defence/Defence put into dispute the denial of entering into the alleged pleaded credit card contract. His Honour highlighted the real issues: the denial of the credit card contract, its existence and unsolicited credit card issue. Further his Honour noted the notices I had given to Credit Corp and its lawyers. The lawyers ventilated none of said issues at the final hearing. (Court Transcripts on 30/3/2016, 18 and 19 July 2016 are available upon request).

<sup>173</sup> A representation of the existing fact which is known to be untrue by the person making the representation at the time of making of the representation. See *Greene v The King* (1949) 79 CLR 353.

<sup>174</sup> A representation which is not in fact correct, see *Given v CV Holland (Holdings) Pty Ltd*. Making a false representation is a contravention of *Australian Consumer Law* Ch 4 Div 1 and Ch 5. The conduct of Piper Alderman and its counsel involved: lying by omission, deception by omission, circumventing/disregarding their duties to the court and to their opponent.

<sup>175</sup> *Credit Law Toolkit*, Legal Aid New South Wales and Financial Rights Legal Centre, 2015.

<sup>176</sup> *The Debt Handbook*, NSW Young Lawyers, sponsored by Attorney-Generals, 1<sup>st</sup> Ed, 2004, at p. 19.

<sup>177</sup> *Credit Law Toolkit*, Legal Aid New South Wales and Financial Rights Legal Centre, 2015. p.12.

<sup>178</sup> *Ibid.*

<sup>179</sup> The former Uniform state and territory Credit law legislation.

<sup>180</sup> *Credit Law Toolkit*, Legal Aid New South Wales and Financial Rights Legal Centre, 2015. P.12.

<sup>181</sup> 'Carried over instrument' as defined in Part 2 of the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009*.

92. The credit laws impose strict regulatory requirements before court proceedings are commenced and non-compliance impose strict liability, referring to the criminal code<sup>182</sup>.
93. Section 88(1)(a) of the *National Consumer Credit Protection Act 2009 - Schedule 1 National Credit Code* states:

**Division 2 -- Enforcement of credit contracts, mortgages and guarantees**

**88 Requirements to be met before credit provider can enforce credit contract or mortgage against defaulting debtor or mortgagor**

*Enforcement of credit contract*

(1) A credit provider must not begin enforcement proceedings against a debtor in relation to a credit contract unless:

- (a) the debtor is in default under the credit contract; and
- (b) the credit provider has given the debtor, and any guarantor, a default notice, complying with this section, allowing the debtor a period of at least 30 days from the date of the notice to remedy the default; and
- (c) the default has not been remedied within that period; and
- (d) if the credit contract is for a reverse mortgage, the credit provider...

*Criminal penalty: 50 penalty units.*

**(b) Applicable legislation in 2006.**

94. ***The Code does not confer enforcement rights and remedies on a credit provider. Those rights and remedies are conferred on a credit provider by the credit contract... the Code restricts the way in which the credit provider may exercise those enforcement rights and remedies. The restrictions are set out in s80(1) (in relation to a credit contract)<sup>183</sup>... The credit contract... cannot relieve the credit provider from those restrictions (s 169)...***<sup>184</sup>

**1. Consumer Credit Code** (as of February 2006).

*"The Code commenced on 1 November 1996.... The Code is not limited to financial institutions and applies to any person who carries on business if "consumer" credit is provided as part of, or even incidentally to, that business."*<sup>185</sup>

**S.5 of the Act** provides:

The *Consumer Credit Code* set out in the Appendix to the *Consumer Credit (Queensland) Act*, as in force for the time being:

- (a) applies as a law of New South Wales, and
- (b) as so applying may be referred to as the *Consumer Credit (New South Wales) Code*.

Link: <https://www.legislation.nsw.gov.au/#/view/act/1995/7/historical2003-07-07/part2/sec5>

**Consumer Credit Code** (*Consumer Credit (Queensland) Act*) which was the law in NSW back in 2006. See sections of the *Code* (but do not limit the scope): ss.12-37 (Credit contract), ss. 100-113A (Civil penalties for defaults of credit providers), ss.132-139 (Related credit insurance contracts). In this case, by issuing a credit card without any credit contract (another standard name for the credit contract is "Offer") without pre-contractual statement, fees and charges booklet, St George Bank breached all applicable to credit contracts sections of the *Credit Code*, including all key requirements to the credit contract. See Beatty A and Smith A, *Consumer Credit Code and Regulations*, (LexisNexis Butterworths, 3rd ed, 2006), pp. 70-73

<sup>182</sup> The legislation imposes strict liability on offences, referring to s 6.1 of the *Criminal Code (National Consumer Credit Protection Act 2009 - Schedule 1 National Credit Code, s88(7))*.

<sup>183</sup> *s 80(1) Enforcement of credit contract* A credit provider must not begin enforcement proceedings against a debtor in relation to a credit contract unless the debtor is in default under the credit contract...

<sup>184</sup> Beatty A and Smith A, *Consumer Credit Code and Regulations*, (LexisNexis Butterworths, 3rd ed, 2006) p. 183.

<sup>185</sup> *Ibid*, p. xv.



and for the meaning of "credit contract" refer to *Police Dept Employees' Credit Union v Flood* [1999] NSWSC 885.<sup>186</sup>

### **Link to Applicable Credit Code in 2006:**

<https://www.legislation.qld.gov.au/view/html/2003-07-01/act-1994-051#Act-1994-051>

### **S. 12: Credit contract to be in form of written contract document**<sup>187</sup>

- (1) *A credit contract must be in the form of—*
- (a) *a written contract document signed by the debtor and the credit provider; or*
  - (b) *a written contract document signed by the credit provider and constituting an offer to the debtor that is accepted by the debtor in accordance with the terms of the offer.*

**S. 15 of the Credit Code: Matters that must be in contract document.** S.15 specifies multiple requirements of what must be included in the credit contract with strict penalties for non-compliance.

### **S. 80 Requirements to be met before credit provider can enforce credit contract or mortgage against defaulting debtor or mortgagor**

- (1) **Enforcement of credit contract.** *A credit provider must not begin enforcement proceedings against a debtor in relation to a credit contract unless the debtor is in default under the credit contract and—*
- (a) *the credit provider has given the debtor, and any guarantor, a default notice, complying with this section, allowing the debtor a period of at least 30 days from the date of the notice to remedy the default; and*
  - (b) *the default has not been remedied within that period. Maximum penalty—50 penalty units.*

## **2. Trade Practices Act 1974 (TPA).**

Link: <https://www.legislation.gov.au/Details/C2006C00026>

Please refer to the sections provided.

S.63A Unsolicited credit and debit cards

S.64 Assertion of right to payment for unsolicited goods or services or for making entry in directory

S.75AZP Unsolicited credit and debit cards

S.75AZQ Assertion of right to payment for unsolicited goods or services or for making an entry in a directory.

The above sections carry strict penalties for non-compliance.

## **3. The ASIC Act 2001.**

Link: <https://www.legislation.gov.au/Details/C2005C00460>

Please refer to the sections provided.

12DL Unsolicited credit cards and debit cards

12DM Assertion of right to payment for unsolicited financial services

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<sup>186</sup> In *Police Dept Employees' Credit Union v Flood* [1999] NSWSC 885 judges considered the meaning of "credit card contract" and application of the **Credit Code** with application of penalties for non-compliance with the key provisions of the *Code*. In my case, colluded lawyers, Piper Alderman and counsels Mr Ford and Mr Hartford Davis being all aware that credit contract never existed, misled the court referring to the non-contractual documents as a credit contract, omitted relevant facts, suppressed the evidence from the court, tempered/deleted my evidence without my knowledge, misled the court on each occasion, did not apply/ventilate relevant provisions of the credit laws, breaching *LPUL* rules, failing their paramount duties to the court and to administration of justice. I never had lawyers in my case, as Mr Ford and Mr Glynn never acted in my best interest. They misled and defrauded me, did not present my case, assisted Piper Alderman to make a trial by ambush, gave false evidence aligned with Piper Alderman, filed false documents (Court Outline, Statement of Facts and Issues) agreed with Piper Alderman without my knowledge, withheld costs documents, wasted my time for appeal, gave intentionally negligent appeal advice.

<sup>187</sup> Section of the *Consumer Credit Code*. On 1 July 2010, *National Credit Code* (Schedule 1 to the *National Consumer Credit Protection Act 2009 (Cth)* (*NCCP Act*) replaced *Consumer Credit Code (CCC)* in all Australian states. Many provisions of *CCC* and *NCC* are identical, numbering can be slightly different. For more information, refer to Beatty A, Smith A, *Annotated National Credit Code*, (LexisNexis Butterworths, 5th ed, Australia 2014).

- 12CB Unconscionable conduct
- 12CC Unconscionable conduct in business transactions
- Subdivision D—Consumer protection
- 12DA Misleading or deceptive conduct
- 12DB False or misleading representations
- 12GB Offences against Subdivision D

The above listed provisions carry strict penalties for non-compliance.

**(c) Non-Application of the Legislation in the Case.**

95. In addition to the above strict and extensive Credit Laws, legislation and regulations, the following are also applicable to this matter:
- (a) *Corporations Act 2001*;
  - (b) the *Contracts Review Act 1980*;
  - (c) The law of contracts and common law; and
  - (d) The circumstances and facts of the case.
96. **Credit Corp/Piper Alderman throughout the entire court proceedings did not provided nor ventilated the following:**
1. Credit card contract ('Offer') in accordance with ss 12, 15, 16, 18, 20, 21, 22, 25, 26 of the *Consumer Credit Code*;
  2. Credit card insurance contract in accordance with ss 132, 133, 136(1) of the *Consumer Credit Code*;
  3. Credit card contract pre-contractual statement in accordance with ss 14-15 of the *Consumer Credit Code*;
  4. The essential written request prior to a credit account being opened, in accordance with s 12DL(2)(a) of the *ASIC Act*, s 63A of the *TPA 1974*.
  5. Fees and charges booklet (*Paciocco v Australia and New Zealand Banking Group Limited*[2016] HCA 28 at page 27 Para 77, page 28 Para 82).
97. **The breaches of the above sections of the TPA 1974 and the ASIC Act are approximately \$6 million in penalties in my case. Piper Alderman, its counsel, Mr Hartford Davis, with my purported legal representatives, Mr Ford and Mr Glynn deliberately omitted and withheld from the court at the final hearing:** the relevant facts, the real issues, the applicable provisions of the credit law and credit law cases, such as *Police Dept Employees' Credit Union v Flood* [1999] NSWSC 885.
98. Credit Corp and its lawyers, Piper Alderman and Certus Partner, filed a claim (**SOC/ASOC**) in breach of the s.80 of the *Credit Code* (s.88 of the *National Credit Code*), which prohibits enforcement proceedings without a credit contract. **No credit contract was concluded and formed pursuant to the applicable credit laws. Commencing enforcement without a default is a contravention of s 80 with a criminal penalty of 50 units.**
99. The Plaintiff's **SOC/ASOC** did **not plead a breach or default under their pleaded credit card contract**<sup>188</sup> nor were there any representations to the court and me of same. Credit Corp and its lawyers, Piper Alderman was aware from the outset of the proceedings that no credit contract existed.

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<sup>188</sup> ...it is not sufficient to set out a list of facts and allow the Defendant to determine what causes of action might arise from those facts. Nor is it sufficient to simply alleged negligence against the Defendant, or to allege a breach a contract at large' Castles M and Hewitt A, *Dispute Resolution and Ethics* (Thomson Reuters Australia Limited., 2014) p.250.

100. *'It is not permissible to state a series of facts and then leave the other party to assume which legal breaches might flow from that series of facts.'*<sup>189</sup>
101. The said legislation and penalties were never ventilated at court, neither any of sections 12-37 of the *Credit Code* which specify statutory writing requirements applicable to the credit contract.
102. *'Although there is a general prohibition on pleading law this does not extend to the naming of a cause of action. Pleading law or "legal categories" will be necessary to articulate legal causes of action. In the case of Kirby v Sanderson Motors Pty Ltd [2002] NSWCA 44, duty of care, fiduciary duty, trust and contract are cited as such categories.'*<sup>190</sup>
103. In this case, Credit Corp/Piper Alderman pleaded a cause of action - a credit card contract, however, this matter was **not determined based on:**
- (a) Any credit card contract;
  - (b) the applicable credit laws, (not considered nor applied);
  - (b) Nor presented at the final hearing, the case which Credit Corp's claim pleaded a credit card contract.
104. The unsolicited credit card issue was never argued and ventilated at the final hearing. A card was issued without a prior written request as required by the *ASIC Act*,<sup>191</sup> without a pre-contractual statement required by statute (s 14 of the *Credit Code*) and without a concluded written credit contract required by statute (ss 12, 15, 18, 20 of the *Credit Code*).
105. Court Transcripts of the two day final hearing provides that Mr Ford:
- (a) did not present the Defence case,
  - (b) never mentioned 'unsolicited credit card',
  - (c) did not question the existence of 'the credit card contract',
  - (d) did not mention the issue of the 'denial of entering into the credit card contract'<sup>192</sup> ;
  - (e) did not give an opening address to the court of the defence case<sup>193</sup>, Mr Hartford-Davis was making representations on behalf of the defence case at the opening address;
  - (f) never ventilated the pleadings in the **FAD** before the court.
- There was no adversarial and fair hearing.**
106. Piper Alderman aided its client to circumvent statutory provisions of the *ASIC Act*, *Trade Practices Act (TPA) 1974*, and the *Credit Code* etc. Such laws were never ventilated and applied at the final hearing and in written submissions. Such provisions have heavy statutory penalties for non-compliance<sup>194</sup>.
107. Lawyers in this case failed their professional and paramount duties to the court, suppressed evidence and material information, misled the court about the real issues in dispute between the parties,<sup>195</sup> withheld relevant statutory laws<sup>196</sup> required to be ventilated.<sup>197</sup> The said lawyers engaged in fraud, collusion, intentional negligence, perverting the administration and the course of justice.

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<sup>189</sup> *Ibid.*

<sup>190</sup> *Ibid.*

<sup>191</sup> Written request must be done prior to entering any credit contract and opening of account with the financial institution.

<sup>192</sup> See '*Interlocutory hearing*' on p.13 in this report.

<sup>193</sup> See '*Final hearing*' on p.18 in this report.

<sup>194</sup> Potentially exceeding \$6 million plus in penalties as per *the ASIC Act*, *TPA 1974* and *National Credit Code*.

<sup>195</sup> "...lawyers duty not to mislead the court remains a touchstone of the adversary system. It extends to all representations to the court, including in the drawing of pleadings and conducting subsequent stages in a case. Castles M and Hewitt A, *Dispute Resolution and Ethics* (Thomson Reuters Australia Limited., 2014), p.515. See *Rondel v Worsley* [1969] 1 AC 191 at 231 per Lord Reid.

<sup>196</sup> Lawyers must not mislead the court as to the law, but "must do what they can to ensure that the law is applied correctly to the case" (*Re Gruzman* (1968) 70 SR (NSW) 316 at 323 (CA). Most fundamentally, lawyers must not misrepresent the law to a court or tribunal (*Clyne v New South Wales Bar Association* (1960) 104 CLR 186 at 200 (FC).

<sup>197</sup> *Rondel v Worsley* [1969] 1 AC 191 at 227-228 per Lord Reid.

#### **iv. Self-Representation and Retained Legal Representatives**

108. I am the respondent, a natural person and consumer in the proceedings. By profession I am a legal practitioner, a sole practitioner.
109. The relevant period in this consumer credit law matter pleaded in the **SOC/ASOC** is '*On or about 16 February 2006*'. I was a student at that time.
110. I was a litigant in person, in these proceedings, from its commencement in 2014 to 22 February 2016. I had assistance in court mention appearance from Mr Andrew Norrie, Barrister, (once), early in the proceedings on or about 11 January 2015, and from Mr Nicholas Silva, Barrister ("Mr Silva")<sup>198</sup> on 17 December 2015.

##### **(i) Mr Nicolas George Ford**

111. Mr Nicolas George Ford of Edmund Barton Chambers, ("Mr Ford"), contacted me about my matter, on or about 17 February 2016, through Mr Silva. **I did not know Mr Ford nor did I approach Mr Ford for his legal services.**
112. I had intended to continue as a litigant in person on the matter when Mr Silva contacted me on or about 9 February 2016, he highly recommended Mr Ford, steadfast that I engage him in my matter as Mr Ford was qualified and experienced in my type of matter - in credit laws, an area of law in which I do not practice.
113. On or about 11 February 2016, Mr Ford was very eager to be engaged in my matter that without being retained and before even speaking to me, Mr Ford travelled to Parramatta from Sydney, attempting to obtain court documents, affidavit evidence, from me via Mr Silva, which we declined to give to him at the time<sup>199</sup>.
114. Mr Ford from the initial phone conversation sometime on 17 February 2016, gave his immediate advice that I needed to amend my amended defence **without review of any documents.**
115. In hindsight, both Mr Ford and Mr Silva **without review of any documents, no credit card contract or credit insurance contract**<sup>200</sup> advised me to amend my Amended defence. At the time they also both stated to me that the Plaintiff's 'claim also had issues' and Plaintiff would need to amend their claim<sup>201</sup>.

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<sup>198</sup> Barrister of Arthur Phillip Chambers at Parramatta.

<sup>199</sup> Drawing my experience as a principal solicitor dealing with barristers, such conduct by Mr Ford, is very unusual from a barrister who did not know me and he would travel a fair distance to Parramatta to obtain my documents, when not engaged in the matter.

<sup>200</sup> Mr Silva and Mr Ford did not disclose to me that Mr Ford knew Mr Hartford Davis. All three said barristers were friends/ did the bar together and were admitted in 2014. It was only revealed to me at court on 30/3/16 when Mr Ford made representations that he knew Mr Hartford Davis for a few years and had prior conversations with him a few weeks prior the hearing, agreeing to vacate the 7 April 2016 hearing (which was against my instructions to vacate).

<sup>201</sup> I now believe, with hindsight, that this was not coincidental that both barristers advised me to amend the defence, doing so would likely result in vacating the listed 7 April 2016 hearing and protracting the proceedings. This allowed the Plaintiff time to concoct and tailor their case to divert the real issue of the credit contract to make their photocopied "card collection form" and its signature issue to be made the central issue in dispute between the parties and present a different case, that a debt is pursuant to a credit card (eliminating the contract issue and ensuring the applicable laws are not ventilated). According to Piper Alderman invoices in Exhibits 1 of Mr Ammer's affidavit dated 15/8/2016, Piper Alderman incurred approx. **\$138,000** in costs since interlocutory hearing of 30/3/2016. (Refer to **Annexure "B.1"**); See '*Gross Costs/Overcharging and Unlawful Enrichment by Piper Alderman*' on p.69 in this report.

116. On 23 February 2016, in my initial meeting with Mr Ford with my witness and support person, Mr Bryl<sup>202</sup>, the immediate advice of Mr Ford was to amend my amended defence. He gave such advice **without**:

- (i) any reference nor review of my affidavit evidence, documents, correspondence etc;
- (ii) reference nor review of any credit card contract and credit insurance contract or any material contract pursuant to the statutory writing requirements under the credit laws;

117. During my initial meeting with Mr Ford, he made representations to me acknowledging the issue that I had not received any credit card contract as pleaded in the **ASOC** including any credit insurance credit contract. He made the following representations among many as follows:

**'...You were not given the terms of the contract. All of those things are easy arguments... they are not going to be able to prove it...'**

Further, in reference to compliance with providing credit card contract and compliance with the credit law/Credit Code, Mr Ford expressly stated to me during our first meeting on 23/2/2016 that **'they breached it [Credit Code]'**.

Notwithstanding Mr Ford's above statement to me, he never raised the said issues to the court. At court, he would act contrary to the representations he made to me.

118. My initial meeting with Mr Ford was 23/2/2016. Within 48 hours at 6pm on 25/2/2016, he emailed me a 12 page Further Amended Defence<sup>203</sup>, ("**FAD**") in PDF and a letter he drafted which directs me to insert my firm's letterhead. Mr Ford states in his said email:

*"I recommend that you issue the letter by email with the Further Amended Defence tomorrow morning at 9 am.. Please let me have your draft affidavit... the affidavits needs to be served tomorrow as well... "*

119. Mr Ford created the **FAD without receiving and reviewing my affidavits, documents and with no reference to any credit contract or credit insurance contract**. Mr Ford only received my evidence on 26/2/2016.<sup>204</sup>

120. **Mr Ford never had possession nor reviewed any credit card contract or an insurance contract or any contract documentation in this matter**<sup>205</sup>. However, on every occasion before the court, at the bar table, Mr Ford maliciously and wilfully gave false evidence at the bar table, effectively that the *'contract/contract documents were provided to me on 12/1/2015'*.

121. The following is a summary of examples, using the 'but for test', of the gross detrimental impact of retaining Mr Ford in my matter. **But for Mr Ford:**

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<sup>202</sup> Mr Bryl has been witness in my case from the outset of the proceedings in 2014. He attended all court events (except the final hearing on 18 and 19 July 2006 due to Mr Ford seeking for him to sit outside courtroom. Mr Bryl was able to observe the behaviour of Credit Corp and its lawyers and Mr Ford And Mr Glynn outside the courtroom and was present in court during the final submission of the parties), and all meetings with me.

<sup>203</sup> In hindsight, being a witness of Mr Ford professional legal work/conduct, Mr Ford hardly discussed my case, the law or the court process/rules/procedures nor would he refer/discuss the pleadings in the **FAD**. He seldom wrote anything down, even when at court. I have reasonable grounds to believe that **Mr Ford did not draft the extensive 12 page Further Amended Defence** within the very short period of time he just met me and with no other document than the Credit Corp's employee Mr Carpenter's affidavit dated 24/3/2015. Mr Ford had directed me to immediately serve the **FAD** on 26/2/2016. I also have grounds to believe that **Mr Ford did not draft/write the submissions** he provided to me on 28/7/2016.

<sup>204</sup> At the final hearing on 18 and 19 July 2016, Mr Ford deliberately misled the court that he was not in the matter at the time of settling and filing my affidavit sworn 26/2/2016. Mr Ford was already retained in my matter and had reviewed and I recently discovered he had tampered with my witnesses' and with my affidavit. (Court Transcript is available upon request).

<sup>205</sup> Mr Ford had full knowledge from the outset, that I had great difficulties obtaining the pleaded credit card contract and material documents from the Plaintiff despite exhaustive requests/notice to produce/orders.

- (a) The listed one-day 7 April 2016 final hearing would not be vacated and the proceedings would not be protracted for further four months, nor would an additional day be added, to make it a two-day hearing<sup>206</sup>;
- (b) Piper Alderman would not incur the gross costs of approx. **\$176,000 following the engagement of Mr Ford on 23/2/2016**, as the matter was already listed for a one day final hearing on 7 April 2016<sup>207</sup>;
- (c) Mr Thomas Glynn of Glynn's Lawyers would not be retained in my matter<sup>208</sup>. (I would not have to deal with Mr Glynn's intentional negligent conduct: of withholding critical court documents, issues with his trust account, not being provided trust receipts to date and multiple breaches of his professional obligations, amongst other improprieties<sup>209</sup>;
- (d) Senior Counsel, Mr Miles Condon, would not be retained in my matter. (I would not have to deal with Mr Condon's intentional negligent advice, gross delay in providing advice and would not be subjected to his dishonourable conduct and profanities<sup>210</sup>;
- (e) Piper Alderman would not be able to present a different case, (card collection form) and eliminate the issue of the contract. They would not be able to circumvent the statutory laws at the final hearing;
- (f) No judgment and costs/indemnity order would be obtained by fraud and collusion committed by the lawyers: Piper Alderman, Mr Hartford Davis, Mr Ford and Mr Glynn;
- (g) I would not be deprived of my day in court to rightfully ventilate the real issues as to the non-existence of the credit card contract, the denial of entering such contract, and would be able to put the strict provisions of *the ASIC Act, Trade Practices Act, and Credit Code* with penalties to the court, to assist in the administration of justice;
- (h) I would not deal with the improprieties, incompetence and fraudulent acts of Mr Ford, Glynn and Mr Condon;
- (i) I would be aware of what is happening in my case and would receive court documents, correspondences and court date updates without Mr Glynn and Mr Ford withholding documents, court dates, correspondences and other information withheld from me;
- (j) No one would tamper with my evidence, which I discovered that Mr Ford did, with my affidavits and my witnesses' affidavits. He did this after three days from initial meeting;
- (k) I would not deal with the conduct with Mr Glynn at the final hearing:

(i) In collusion with Piper Alderman and its counsel, Mr Hartford Davis:

1. Handed up to the court on the first day of hearing, a 'Statement of Agreed Facts and Issues' ("**SAFI**") without my review/instructions/knowledge. The said document contained gross misleading facts, which were agreed by the lawyers. I believe that Mr Ford insisted I needed Mr Glynn on this matter to ensure that I would be deprived of the knowledge of documents handed up/put to the court. Mr Glynn kept me at bay at the final hearing. He directed me to sit at the back of the court, no instructions were sought and if I tried to provide instructions, I was told to sit back down. Mr Glynn assisted Mr Ford, including withholding court documents, court dates and other communications;

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<sup>206</sup> Mr Ford had sought to make the proceedings three days. Both counsels on Court Transcript considered possibility of extending the hearing to three day hearing. There are reasonable grounds to believe that this case was protracted for the lawyers' (Piper Alderman, Mr Hartford-Davis, Mr Ford and Mr Glynn) vested interest.

<sup>207</sup> Approximately \$176,000 (82%) of \$213,000 Plaintiff's legal costs was incurred by Piper Alderman during the 6 months while Mr Ford was involved in the matter, from the time he was engaged in February 2016 until August 2016.

<sup>208</sup> I never approached Mr Glynn for his services. Mr Ford insisted and abused his position of trust to influence me to retain Mr Glynn making misleading representations that I needed Mr Glynn in my matter.

<sup>209</sup> To date I have not received any Trust receipts despite requests. Mr Glynn did not reply/addressed the issues raised in my extensive letter to him on 28/4/2017 and made false representation that he would. Mr Glynn is a grossly dishonest person, who made multiple misrepresentations throughout the cost assessment process and does not even know my case, referring to it that I 'had a claim'.

<sup>210</sup> Mr Condon provided gross incompetent, intentional negligent appeal advice with no reference to the statutory laws and used threats of credit-based findings against me. When asked to clarify, Mr Condon could not specify the credit-based findings. He also made an unsolicited attempt to contact my mother's place of work in September 2017

2. to present a different case to the court than what was pleaded in the claim, eliminating the real issues of the non-existence of the credit card contract and unsolicited credit card;
3. Premeditate maliciously remove the real issues in dispute and not ventilate the applicable legislation;
4. Removed and diminished my case, my facts/my evidence, deprived my rights to ventilate my case and have a fair and adversarial hearing - violating my human rights;
5. Not ventilated the pleadings in the Further Amended Defence and the claim;
6. Allowed Mr Ford to give evidence at the bar table stating '*contract documentations never provided until 12/1/2015*'.

(ii) Seeking from the court credit based findings against me (in Mr Ford's oral submissions and written submissions). Mr Ford made multiple threats against towards my profession such statements as '*I have warned you of the risks in this regard, especially where there are potential adverse credit findings that may involve the Legal Commissioner...*'<sup>211</sup>

(iii) the only meeting with me throughout the entire two day hearing was to ask me, (the only time Mr Ford and Mr Glynn spoke to me):

1. about the amount of my indemnity insurance;
2. to provide Piper Alderman/Credit Corp my 2015 Tax return (which is irrelevant to the case, noting the relevant period is 2006);
3. The Veda report back in 2006.

122. Upon engagement in this matter, Mr Ford:

(a) commenced implicating me as a solicitor and my legal firm directing me to insert my firm's letterhead on his draft letters and asking to sign them<sup>212</sup> (without my instructions, Mr Ford drafted court documents, among other documents, recording me as the "solicitor and my legal firm on the cover sheets of court documents which was never done before);

(b) Specifically advised me after court on 30/3/2016 not to subpoena the Plaintiff, not to send them any more notices/correspondences and not to respond to them. He also stopped me from serving 'Notice to admit facts and authentication of documents'<sup>213</sup> on the Credit Corp/Plaintiff which again would give notice of the issue of non-existence of the credit card contract, among other issues, seeking for their pleaded credit card contract which they ignored and deflected such notices not producing any credit contract;

<sup>211</sup> This statement was made a few days prior final hearing and was said in line with wanting me to retain Mr Glynn. Mr Ford made such statement as if he discussed with me about potential risks - which he never did.

<sup>212</sup> I had questioned Mr Ford's advice of inserting my firm's letterhead, as I never wrote from my firm's letterhead as I was a litigant in person and was not in the capacity of a legal practitioner. Mr Ford effectively replied: "just put it there". Mr Ford's premeditated malicious intentions would be revealed after the proceedings concluded once judgment and costs/indemnity order against me were obtained. Mr Ford's account statement dated 27/1/2017 recorded me as the "instructing solicitor", whilst Mr Glynn, who Mr Ford insisted I retain as my solicitor was nowhere to be recorded in Mr Ford's statements. Further he does not refer to Mr Glynn as the solicitor/instructing solicitor). Mr Ford took no accountability of his professional conduct/service in my matter and blamed me for what transpired in my case and at final hearing. Mr Glynn's trust account records that payments were paid to Mr Ford, however, Mr Ford's statement fraudulently records that funds were received from my firm by a "cheque", (never issued by me/by my firm). Mr Ford had a sinister and malicious role in my matter to breach every possible duty he had to his client and to the court, to implicate my firm, ensure that the real issues would not be ventilated - seeking only for credit based findings, gave false evidence at the bar table to misrepresent that 'I received credit contract on 12/1/15' to obtain full cost/indemnity order against me. In April 2017 he emailed me a threat that he will report me to the **OLSC** when he received a notice that I would be forwarding him questions in relation to what transpired and conduct of the matter.

<sup>213</sup> In his email dated 29/3/2016, Mr Ford was very specific in hindering me from sending a 'Notice to admit facts and authenticity' of documents to Piper Alderman which would further put them on notice of the issue of the non-existence of the credit card contract of which they had notice from me since December 2014.

- (c) Contrary to my instructions/evidence/notices/correspondences, Mr Ford **maliciously and wilfully gave false evidence on every occasion before the court** at the bar table, in his submissions, in his written "Outline" (x2, dated 30/3/2016 and 18/7/2016) which he submitted to the court without my knowledge/instructions/review and where he stated false facts, amongst them, that credit contract /contract documents were provided to me on 12/1/2015.
- (c) Tampered with my affidavit evidence and witnesses' affidavit evidence, which I discovered recently. He did this only three days from meeting;
- (d) Referred to opposing solicitor '*my learned instructing solicitor, Mr Ammer*'. **Mr Ford's involvement in this matter had an abdominal relation to the substantial change in the course of the court proceedings and in spiked gross costs incurred by Piper Alderman.** Approximately \$176,000 (82%) of \$213,000 Plaintiff's legal costs were incurred by Piper Alderman during the 6 months when Mr Ford became involved in the matter, from the time he was engaged in February 2016 until August 2016, which is approximately 27% of the duration of time this matter was in court proceedings<sup>214</sup>.

123. Reports to **OLSC** will be provided on Mr Ford, Mr Glynn, including Mr Condon of their improprieties and malicious intentional negligence, in participation of perverting the administration and course of justice and fraud in which Mr Ford brought into my case his colleagues/friends Mr Glynn and Mr Condon to assist him with his acts.

## **v. Notices of issues and conduct.**

### **(a) Recent Notice**

#### **(i) Piper Alderman.**

124. Multiple notices of the serious issues and conduct have been put to Piper Alderman<sup>215</sup> lawyers/Partners: Mr Florian Ammer ("Mr Ammer") and Ms Anne Freeman ("Ms Freeman")<sup>216</sup>. The said practitioners wilfully ignored such notices and remained silent on the matter.

#### **(ii) Credit Corp, Westpac Bank and St George Bank.**

125. Notice of serious issues and conduct were given:

- (a) On 9 May 2018 to Credit Corp's CEO Mr T.Beregi and Credit Corp's Board of Directors<sup>217</sup>;  
 (b) On 31 May 2018 to CEO of Westpac Bank and St George Bank's General Bank Manager<sup>218</sup>.

No response to the notices has been provided to date. They are all unified in ignoring my notices and remaining silent on the matter.

#### **(iii) Presiding Magistrate Sharon Freund at the Final Hearing.**

126. Notice of issues and seeking clarification in respect to the judgment was put to Magistrate Freund, from February 2017 where, I gave notice:

<sup>214</sup> Refer to the costs/time graph in **Annexure "E"**.

<sup>215</sup> Notices of the serious conduct raised in this complaint such as their conspiracy to pervert justice, obtaining judgment by unlawful means were put to Piper Alderman during the Supreme Court - Cost Assessment Process from 19/12/2017. (Refer to **Annexure "D"**). Piper Alderman/Mr Ammer Submission 27/4/18 does not address the serious issues raised and confirms that the case was conducted on a "card collection form" as the material document and its signature as core issue in dispute at the final hearing (Refer to **Annexure "D.1"**); In relation to the notices about the issue of the pleaded Credit Contract, Piper Alderman were aware from the outset of my **RFBP** dated 5/11/2014 and all the subsequent notices and orders. See '*Notices RE: Credit and Insurance Contract*' on p.42 in this report and also refer to **Annexes "C"** and **"C.1"**.

<sup>216</sup> Ms Freeman was the solicitor on record in the main proceedings.

<sup>217</sup> Correspondence to Credit Corp CEO and its Board of Directors is available upon request.

<sup>218</sup> Correspondence to Westpac Bank CEO and St George Bank General Manager is available upon request.



- (a) of the wrongful recording of my law firm as 'instructing' at the hearing. Mr Glynn was the instructing solicitor and he had filed a notice to appear in 15 July 2018. No notice of appearance was filed with my firm's name and should not be possible to be recorded in the judgment;
- (b) that a paralegal/JP was sitting at the bar table for the entire court proceedings, Ms Natalie Miller. Piper Alderman Counsel referred to Ms Miller as his '*instructing solicitor*'. Judgment records Ms Freeman as 'instructing' solicitor appearing at the final hearing when Ms Freeman never appeared before the court at the final hearing or throughout these proceedings;
- (c) importantly, seeking clarification from Magistrate Freund, what is referred in her judgment as the 'credit card contract', making statement as if it exists. I put to Magistrate Freund that no contract exists and that I have no reference to what she is referring as the credit card contract and for the interest of justice, I required her clarification of her judgment and also referred her to the documents of my requires/notices/correspondents and Piper Alderman letters where no such contract was provided to me to date. At the final hearing no such credit contract was produced nor admitted in evidence nor were Witnesses asked to identify and specify any credit card contract.
- (d) of the wrongful amounts and application of interest rates. There is no ability to verify such amounts as I have no reference to what Magistrate Freund refers in her judgment as to how she obtained the amount and interest rate, as no contract is available to verify any such figures.

127. The issues I raised seeking clarification of what is referred as the credit card contract in the judgment was never addressed by Magistrate Freund to date. When put to Mr Ford and Mr Glynn they too avoided the questions and refused to clarify/address the matter.

- (a) Mr Ford gave false evidence at the bar table at the court hearing that '*contract documents were received 12/1/2015*'.
- (b) On 29/8/2016 after the cost argument hearing, Mr Ford stated, when we pressed to clarify what Magistrate Freund refers as the contract, Mr Ford quickly dismissed the question stating that Magistrate Freund '*inferred it, she made it out*'.
- (c) On 12/9/2016, in the office of Mr Miles Condon (Senior Counsel), who Mr Ford insisted I engage to obtain appeal advice). Mr Ford in response to the question, 'whether there was a written contract?' stated, '**No, we never got the see the contract... The contract and pre-contractual statement were never provided**'.

128. Magistrate Freund granted full indemnity costs of a quarter of a million dollars, based solely on the false evidence given **by Mr Ford at the bar table**<sup>219</sup> on 29 August 2016, effectively that '*contract documents were received 12/1/2015*'<sup>220</sup>. No such evidence from me or other witnesses, (not in affidavit nor under oath (, was ever given that a credit contract and/or contract documents was provided to me on 12/1/2015. Further, the 'core' document heavily ventilated and relied at the final hearing was the card collection form, not a credit contract nor contract document nor an essential document pursuant to the law.

(ii) My purported legal representatives - Mr Nicolas Ford, Mr Thomas Glynn and Mr Miles Condon.

129. Notice of issues of what transpired at the final hearing, the judgment (which refers to a credit card contract which does not exist) and conduct of my purported representatives, among

<sup>219</sup> Mr Ford was specifically retained to address the issue of the non-existence of the credit card contract and credit insurance contract. Mr Ford maliciously misled me and conspired with his friend/colleague Mr Hartford Davis (having done the Bar together) to pervert the course of justice and grossly act with dishonesty and disregard their paramount duties to the court.

<sup>220</sup> Court Transcript 29/8/2016, available upon request.

others, were put to Mr Ford and Mr Glynn in two extensive letters address specifically to each of them, dated 28 April 2017. Notice was also given by correspondence to Senior Counsel, Mr Miles Condon, in May 2017. All three legal practitioners, Mr Ford, Mr Glynn and Mr Condon maliciously misled and wasted my critical 28 timeframe to appeal. The appeal advice was given to me approximately within the last 2 hours, about 3:00pm, on the 28th day, being 13/9/2016, despite prompt notice to Mr Ford and Mr Glynn to have such appeal advice from 16/8/2016 and monies paid into Mr Glynn's trust account on 30 August 2016.

130. The issues put to the said legal practitioners were never addressed to date. All are silent on the issue of the credit card contract referred in the judgment. The said legal practitioners demonstrate they have no accountability as legal practitioners and conveniently revert to threatening my profession as a legal practitioner and me personally.
131. Reports are to be made on the said three practitioners in due course.

#### **(b) Notice to Relevant Organisations.**

132. Credit Corp is a member of the Credit and Investment Ombudsman scheme. It is mandatory for financial service providers to have membership with an external dispute resolution scheme.
133. Without any resolution to obtaining the pleaded credit card contract and the credit insurance contract, I was adversely prejudiced. I was faced to undertake other avenues in the attempt to resolve the matter.
134. On or about 13 November 2014 - I gave notice and reported Credit Corp to ASIC for making a claim without any documents provided and for their conduct.
135. On 18 February 2015 I submitted a report to the Financial Ombudsman Services ("**FOS**") when Credit Corp/Piper Alderman continued to ignore my **RBFP** and notices to produce. The report listed the issues of the credit contract, which has never been provided to me including the credit insurance contract and other relevant documents, which Credit Corp consistently fails to provide me despite, repeated notices put to them<sup>221</sup>. The report to the **FOS** was subsequently forwarded to the Credit and Investments Ombudsman ("**CIO**"). A **CIO** complaint form was also completed online on 27 February 2015.
136. On or about 6 November 2015, I gave notice to Credit Corp CEO, Mr Thomas Beregi (also a **CIO** Board Director), and Credit Corp Chairman Mr Donald McLay, concerning the conduct of their lawyers, Piper Alderman. Piper Alderman made misleading representations before the court by solicitor Mr Mennilli about the CIO process, its CIO rules and guidelines, undermining the representations of a CIO employee, Ms Margaret Hur whose correspondence is relied upon in respect the status of the CIO. The said CEO and Chairman remained silent on the issue, allowing their lawyers to continue with their improprieties.
137. There was no resolution of the matter through the **CIO** process. **CIO** held onto the complaint for 6-8 months only to close it at the 'review stage', concluding as not made out and not within their jurisdiction.

#### **(c) Notices RE: Credit and Insurance Contract.**

138. Upon receiving the Statement of Claim on 28 October 2014, I promptly and reasonably sought particulars, a standard practice, requesting, in particular, the pleaded "credit card contract" relied as cause of action by the Credit Corp and its lawyers in **SOC/ASOC**<sup>222</sup>.

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<sup>221</sup> Refer to the table, 'Notices RE: Credit and Insurance Contract'.

<sup>222</sup> In the **SOC/ASOC**, the contract is pleaded and defined in paragraph 3: 'contract number 4564 8511 0092 0368

(**Contract**)'. The same definition is made by Plaintiff's employee Mr Carpenter's sworn affidavit 24/3/2015. Note: The long

139. Notwithstanding exhaustive and repeated notices, (as per the table below), given to Piper Alderman and its client, they wilfully failed to comply with the **RFBP** and the Notices to produce<sup>223</sup> (where all notices expressly request, in paragraph 1 - the production of the pleaded 'credit card contract'). Credit Corp/Piper Alderman **breached multiple court orders in the non-compliance of the provision of the pleaded credit contract.**
140. The following table provides my exhaustive notices for the provision of pleaded credit card contract and other relevant documents from Credit Corp ("**CC**") and its lawyers, Certus Partners ("**CP**")/ Piper Alderman ("**PA**") including notices to ASIC, St George Bank, **FOS, CIO**, my purported legal representatives and Magistrate Freund.

**Notices for the provision of pleaded credit card contract and other relevant documents from Credit Corp and its lawyers**

No.	Documents	Notices / Representations
1	Request for Further and Better Particulars dated <b>5/11/2014</b> (" <b>RFBP</b> ") to <b>CC/CP</b> :	<i>'To adequately respond to the SOC, further and better particulars are requested as follows, following your numbering: I. (3), a copy of the St George Bank Limited, ("St George") contract. II. (4) a copy of the contract of the alleged debt...'</i>  (See to <b>Annexure "C"</b> )
2	Report to ASIC dated <b>13/11/2014</b> (Ref: 90502749)	Notice was provided to ASIC effectively in relation to the conduct of Credit Corp and that I never had in possession any credit contract nor material documents.  ASIC did not address the issue.  <b>To date I do not have a credit card contract and credit insurance contract.</b>
3	Reply/Defence to Credit Corp's pleadings in <b>SOC</b> .  Defence filed <b>25/11/2014</b> .	Without any credit contract, my defence pleaded in para.3, in reply to Para 3 of the claim which pleading a credit contract (I never received nor seen and which I believe did not exist, putting its existence into question and dispute):  <b>'The Defendant denies and does not admit the allegations in paragraph 3 of the Amended Statement of Claim';</b>
4	<b>7/1/2015</b> - First Return Date. Matthew Mennilli appeared for <b>CC</b>  <b>Consent Orders dated 7/1/2015</b>	By consent the parties handed up short minutes of order at court on <b>7 January 2015</b> . An order was made for the Plaintiff to comply with my <b>'Further and Better Particulars within 7 days'</b> .  Paragraph 1 of the request for particulars, sought <b>'a copy of the St George Bank Limited, (St.George), contract.'</b>  <b>Credit Corp/Piper Alderman failed to comply with the Order. No Credit Card Contract or Credit insurance were provided, among others particulars/documents pursuant to the RFBP).</b>  Note: (a) At court on <b>7/1/15</b> , Mr Mennilli was put on notice of not receiving any credit card contract and he was asked about the non-compliance of the <b>RFBP</b> . His response was effectively <b>'why did you file a defence?'</b> He stated he did not know in respect to the non-compliance of the <b>RFBP</b> and he did not address the question put to him about the provision of the pleaded credit contract.  On review of Piper Alderman's invoice, (as Exhibits in Affidavit of Mr Ammer's sworn 15/8/16, See <b>Annexure "B.1"</b> ), Mr Mennilli records his attendance on 6/1/2015: <b>'failure to promptly respond</b>

number is a credit card number. On 30/3/2016 the Magistrate Pierce is made to believe that such pleading with a long number is an agreement, stating *'...but para 3 of the amended claim asserts that there was a particular agreement with a very long number on it.'* (Para 10 p.26 on court transcript dated 30/3/2016). Misleading his Honour to believe that the document pleaded is a contract. Despite Magistrate Pierce being confused over what is a contract in the case is, the counsels deliberately did not clarify that the number is a credit card number and not a contract/agreement number. Instead, both Counsels misled the court that contract/contract documents are in the evidence, which is not the case and there are no credit contract and credit insurance contract in the evidence as pursuant to the strict credit laws.

<sup>223</sup> Refer to copies of Request for Further and Better Particulars ("**RFBP**") and three Notices to Produce ("**NTP**") in **Annexes "C"** to "**C. 1**" in my letter to the OLSC dated 1/12/2017 (OLSC Complaints Nos. 53526 & 53544). In court on 27/10/2015 Mr Mennilli who appeared for the Plaintiff gave an undertaking to the court for compliance with the NTP dated 10/2/2015 within 21 days. The court made an order accordingly. Mr Mennilli never represented that 'contract documents' were provided to me on 12/1/2015.

		<p><b>to request for particulars’.</b></p> <p>(b) On 12/1/2015 - I received documents from Piper Alderman, (<b>not a credit contract</b>):  (a) Application summary, (b) Card Collection Form, (c) Statements. The Piper Alderman/Mr Ammer referred to the documents as ‘<u>related</u>’ to the contract.</p>
5	<p>Amended Defence filed <b>27/1/2015</b>.</p> <p>Piper Alderman failed to comply with <b>Orders 1/7/2015</b> to provide credit contract and contract documents.</p>	<p>Piper Alderman wilfully <u>failed</u> to comply with consent orders dated 1/7/2015. I was prejudiced <b>and faced to file an Amended Defence without receipt of the pleaded credit contract as pleaded in the SOC/ASOC.</b></p> <p>The consent orders dated 7/1/2015 were agreed as <b>CC/PA</b> sought to amend their claim. My consent for them to amend the claim was conditional that the <b>RFBP</b> would be complied, which sought, among others, in <b>Para 1 - sought production of the pleaded credit contract</b>. Piper Alderman solicitor, Mr Mennilli, drafted the consent orders, and the court made Orders for compliance with <b>RFBP</b> within 7 days. (See <b>Annexure “C.1”</b>)</p> <p>From the outset, Credit Corp/Piper Alderman was also given notice that I would consider cross-claim upon receipt of their pleaded credit contract and relevant documents.</p>
6	<p>Letter to St George Bank dated <b>3/2/2015</b>,</p> <p>(Due to <u>Credit Corp and its lawyer’s failure to provide their pleaded credit contract</u>, prejudicing me in the proceedings. I was faced to make enquiries with St George Bank)</p>	<p>After my meeting with the Bank’s Branch Manager on 20/1/15 and 23/1/15, I requested for an investigation <u>on the account</u> and <b>requested for the credit contract</b>, (As Credit Corp had pleaded a credit card contract in its claim. A contract I’ve never seen nor received). (Emphasis in bold added):</p> <p><i>‘... The following particulars are required to clarify this matter: ...</i>  3) <i>A copy of the signed SGB credit card contract</i>  4) <i>A copy of the SGB Swann credit card insurance policy and signed agreement</i>  5) <i>Confirmation of the date in which the SGB credit card contract was entered into, when the said card was activated and the date the card was posted to my residential address...’</i></p> <p>The letter, (available upon request), further provides the background, stating (Emphasis in bold added):</p> <p><b><i>‘...I did not sign any collection card form nor received any documentation. I did not enter into a Swan credit card insurance...</i></b>  <i>...Sometime in May 2010, I received correspondence from Credit Corp... I received no SGB documentations and till this day, I have been refused the SGB credit card contract despite numerous requests...</i></p> <p><b><i>The reason for this correspondence is because on 12 January 2015, I received particulars from Credit Corp which was court ordered. Although it was requested. I was still not provided with the signed SGB credit card contract...</i></b></p> <p><i>I spoke to several SGB representatives, as recorded in your system... confirmation from Amanda... She confirmed that the application was done online... Amanda could not confirm any contract...</i></p> <p><i>I attended SGB Parramatta branch and spoke to Branch Manager Sampath... I received a call from Sampath on Friday 23 January 2015. He could not confirm any signed contract and advised me to write a letter to SGB complaints, to raise my concerns and have this matter investigated...’</i></p> <p><b><u>To date, no Copy of any credit card contract or credit insurance contract were provided to me.</u></b></p>

<p>7</p>	<p>Letter to Piper Alderman dated <b>4/2/2015</b>:</p> <p>Mr Ford deliberately misquoted my said letter before court on <b>30/3/2016</b>.</p> <p>Further example of Mr Ford's deliberate misrepresentation to the court, misquoting my letter dated <b>18/2/2015</b> (in relation to the credit insurance contract).</p>	<p>Letter to Piper Alderman dated <b>4/2/2015</b> states, (<i>emphasis in bold added</i>):</p> <p><i>'In reference to your letter dated 12 January 2015 and upon receipt of particulars. <b>I am offered no further clarification to your client's claim.</b></i></p> <p><i>I refer to the numbering of your client's Amended Statement of Claim, ("ASOC"):</i></p> <p><b>Paragraph 3</b></p> <p><i>The <b>contract referred in your client's ASOC has never been in my possession. I have made it very clear to your client and have repeatedly requested such contract to be provided to me.</b></i></p> <p><i>... the <b>lack of particulars to substantiate the claim has greatly prejudiced my position to defend your client's claim, hindering clarification in understanding the claim I am to meet</b></i></p> <p>On <b>30/3/2016</b>, Mr Ford deliberately misquoted my letter to Piper Alderman dated 4/2/2015 to mislead the court that I received a contract:</p> <p>Mr Ford: <b>"I have made...provided to me," first sentence, "The contract referred...in my possession," 4 February 2015.</b><sup>224</sup></p> <p>What my said letter actually state:</p> <p><i>'The contract referred in your client's ASOC has never been in my possession. I have made it very clear to your client and have repeatedly requested such contract to be provided to me...'</i></p> <p>Another letter before the court Mr Ford deliberately misquotes is my letter to Swann insurance dated <b>18 February 2015</b>, to mislead the court that I had received Swan insurance contract:</p> <p>Mr Ford: <b>"At about point 7 on the page, "I received the...contract was provided." Your Honour, I hope that answers your question..."</b><sup>225</sup>.</p> <p>My said letter at point 7 actually states:</p> <p><i>'I received email from Diane, a product disclosure brochure, which I never seen before, and a one page Swann statement, date of issue, 22 January 2015. No copy of a signed Swann contract was provided.'</i></p> <p>The above are a few of many examples of <u>deliberate and malicious conduct</u> by Mr Ford misleading the court. (In collusion with Piper Alderman and its counsel, Mr Hartford Davis).</p>
<p>8</p>	<p>Letter to Piper Alderman dated <b>5/2/2015</b></p> <p>(available upon request)</p>	<p>Letter to Piper Alderman dated <b>5/2/2015</b> states, (<i>emphasis in bold added</i>):</p> <p><i>'I have <b>not been provided a copy of the credit card agreement, (the Contract), by St George Bank (SGB), and to date have never been provided a copy of the contract despite repeated requests.</b> I am to be provided the credit card agreement at the first instance, not many years thereafter.</i></p> <p><i>I deny and neither admit the allegation as it is not within my knowledge to verify the claim.</i></p> <p><i>Your client is relying on the assignment of debt owed to SGB on the bases of a contract with SGB.</i></p> <p><b>The allegation of fact set out by your client are matters not within my personal knowledge and I am not party to the agreement between your client and SGB.</b></p> <p><i>It is noted that Section 12 of the Conveyancing Act 1919 is relied upon. It is the contemplation of the law that the asserted assignment to your client has complied with the statutory rights of the defendant.</i></p> <p><i>Such assignment pursuant to the provisions of Section 12 of the Conveyancing Act must firstly proceed on the bases that the primary documents relied upon by the assignment to the Plaintiff has <b>complied with the common law and statutory contractual rights of the parties involved including that of the Defendant...</b></i></p> <p><i>I dispute the allegation that the signature on the copy of the card collection form is my signature.</i></p>

<sup>224</sup> Mr Ford wilfully misquoted my letter dated 4/2/2015 before the court and on Court Transcript. Mr Ford maliciously misled the court that I had possession of the contract. Such conduct by Mr Ford is consistent on every occasion before the court. Mr Ford wilfully gives false evidence at the bar table, effectively, 'contract documents were never received until 12/1/2015'. Such statement is contrary to my instructions/evidence/correspondences/notices to produce. Mr Ford was the only one gives such evidence.

<sup>225</sup> Court Transcript 30/3/2016, p. 9.

		<p>Upon receipt of such documents, SGB was promptly contacted and notified</p> <p>...I require your client to provide me a copy of the contract alleged to have entered by me with SGB</p> <p>I was not served a copy of the contract, a primary source document relied upon by the plaintiff in this proceedings.</p> <p>It is imperative in this proceedings that a copy of the contract to the term and conditions of the assignment relied upon in this proceedings be produced by your client. I am entitled under common law and statutory law to be apprised the terms and condition of a contract for which I am asked to be bound by the plaintiff..</p> <p>The validity of the assignment of any contract with SGB to the plaintiff is the core dispute on this matter and whether I, as the defendant, owe any amount to the plaintiff on the bases of such assignment.<sup>226</sup></p>
9	<p>Notice to Produce, dated <b>10/2/2015</b> ("<b>NTP_1</b>") See to <b>Annexure "C.1"</b></p>	<p><b>NTP_1</b> has 9 paragraphs. The first paragraph request for a copy the credit card contract pleaded in Credit Corp's claim. (Emphasis in bold added)</p> <p>'1. A copy of the <b>St George Bank credit card agreement, agreement number 4564851100920368 ("the contract")</b><sup>227</sup>.</p> <p><u>The above numbers are credit card numbers <b>not a credit contract/agreement number.</b></u></p>
10	<p><b>18/02/2015</b> Filed complaint to <b>FOS</b> RE: St George Bank ("SGB").</p> <p>Piper Alderman and its client deliberately failed to comply with requests for production of their pleaded contract and had deliberately breached Consent Orders dated 1/7/15 - (Para 1 of the <b>RFBP</b> sought production of their pleaded credit card contract.</p>	<p>The Financial Ombudsman Services ("<b>FOS</b>"), which the complaint states (Emphasis in bold added):</p> <p>'Details of your dispute: Kindly refer to my attached letter. Fraudulent conduct in the application process by St George Bank, ("SGB"), representative. I was <b>never provided a copy of any St George credit card documentations such as the contract</b>. I was entered into an insurance policy with Swann insurance Pty Ltd, ("Swann"), which <b>I never authorised</b>. <b>No contract or documentations was provided to me</b> in respect to this insurance policy. Swann automatically deducted funds from my credit card account. The debt was later sold/assigned to Credit Corp Services Pty Ltd, who commenced court proceedings. <b>Credit Corp has consistently referred and relied to the SGB credit card contract which has never been provided to me despite numerous request from Credit Corp and SGB.</b> <b>I am being dragged to court with no clarification of the debt and no documentations to support the claim.</b> <b>On 12 Jan 2015, I received for the first time the SGB application form and card collection form which I know was not done by me and the signature is not mine.</b> <b>No copies of any contract with SGB and Swann were provided. I immediately brought this to the attention of SGB. I contacted Swann insurance as I was able to review all SGB statement of the funds they unlawfully deducted from my account. SGB has not provided me any assistance to clarify any of the issues I raised in my letter dated 3 Feb 2015.</b> What is concerning is that I brought to their attention that there is <b>fraudulent conduct on behalf of their staff in respect to the way the application of the credit card was processed, and investigations should be conducted</b>. The response I received from Reni, SGB complaints customer relations, was that it was no longer their problem as the account was assigned to Credit Corp. I have made many attempts to clarify this matter with SGB before lodging this dispute. I will be doing the same with Swann.</p> <p>What do you think is a fair and reasonable resolution to the dispute?:</p> <p><b>To confirm and clarify the credit card contract that has never been provided to me. I find it extremely frustrating and confusing as to why SGB and Credit Corp would not provide me a contract which I am entitled to receive. To investigate the way this credit card was assessed and processed, particularly the SGB staff who signed the card collection form and made the application online. That if such contract does not exist, SGB would be found to have breached multiple laws such as privacy and unlawfully assigning debt to a third party. I also take issue on how SGB made assessments on providing a 40K credit card to a person with an income of just over \$40k at the time the card was issued. This is against responsible lending. I will seek compensation on this matter as the SGB credit card has caused great financial loss and hardship in my life and will ensure that such conduct will not happen in the future as I do not wish this happening to anyone else.'</b></p>

<sup>226</sup> A copy of the letter to Piper Alderman dated 5 February 2015 available upon request.

<sup>227</sup> Refer to **Annexure "C.1"**.

11	<p><b>27/2/2015</b> - Complaint to Credit and Investment Ombudsman (<b>CIO</b>) on Credit Corp.</p>	<p>CIO complaint states (Emphasis in bold added):</p> <p><i>'CC solicitor Carlos Toda was non responsive to my multiple requests to contact me back after they served the SOC on me... There were errors to the figures on the court documents which were amended by Piper Alderman – new legal representative for CC since Dec 2014. CC had changed legal representative by the first return court date. <b>Despite my numerous requests to get clarification of the debt and obtain a copy of the credit card contract, to date CC continually refuses to provide documents to me.</b> I have been dragged to the court without any documentation to clarify a debt. <b>I have gone through all avenues to obtain documents and requested SGB, the original creditor who could not provide a contract.</b> CC has relied on the contract in their written correspondence to me since May 2010 and in their court pleadings. The only documents "<u>related to the contract</u>" provided by Piper Alderman were: (1) standard copy of Terms and Conditions for SGB credit cards, (2) an application for credit card (3) a copy of credit card collection form. <b>All three documents were never seen or received before....</b></i></p> <p><b>CC to provide a copy of the SGB credit card contract and all relevant documents pertaining to the contract.'</b></p>
12	<p>The Financial Ombudsman Services ("<b>FOS</b>") letter dated <b>3 March 2015</b></p> <p>(In reply to my FOS complaint dated 18/2/2015 - Refer to No.10 above)</p>	<p>The <b>FOS</b> letter was in response to the dispute with St George Bank (Ref:391056) and telephone conversation on 25 February 2015.</p> <p>The letter effectively summarises the issues of not receiving credit card contract and resolution requested, as follows, (Emphasis in bold added):</p> <p><i>'... failure by St George to provide you with copies of credit card documentation, such as a credit contract... ...In resolution of the dispute, you are requesting:</i></p> <ul style="list-style-type: none"> <li><i>• St George to "<b>confirm and clarify the credit card contract that has never been provided to me</b>"; and</i></li> <li><i>• The Financial Ombudsman Service (FOS) to "investigate the way this credit card was assessed and processed"...'</i></li> </ul>
13	<p>Letter to Piper Alderman dated <b>5/3/2015</b>:</p>	<p>Correspondence to Piper Alderman/Mr Ammer states, (Emphasis in bold added):</p> <p><i>'In reference to the letters dated 4/2/2015 and 5/2/2015, a number of issues were raised and <b>no clarification to date has been provided by your office.</b> I put you on notice that the <b>blatant tampering of my account statements is a very serious matter...</b> It has been more than 14 days since the notice to produce was served on your client...'</i></p> <p>Credit Corp/Piper Alderman deliberately continues to fail to comply with the notice to produce, and also address, among others issue, the fabricated and manipulated Credit Corp account statements, where prior statement do not match the Credit Corp statement given in the proceedings, where it can be clearly seen that the interest rate has been changed to align with 8.66% interest rate pleaded in the claim<sup>228</sup>.</p>
14	<p>Letter from <b>FOS</b> - Code Compliance</p> <p><b>28/4/2015</b></p> <p>(In reply to my FOS complaint dated 18/2/2015 - Refer to No.10 above)</p> <p>(Note: There is no express mention of credit card contract which has been reduced to 'documents' and 'credit card</p>	<p>Correspondence from <b>FOS</b> Code Compliance states, (Emphasis in bold added):</p> <p><i>Dear Ms Odtojan</i></p> <p><i>You wrote to us in March 2015 to raise concerns about St George Bank and Swann Insurance.</i></p> <p><i>I apologise that it has taken this long to contact you – we only became aware of the material you lodged on-line via our website when we recently conducted a test of our electronic 'report a concern' form.</i></p> <p><i>Although we had received correspondence from other consumers, we did not receive yours although it was held in our system. We are currently investigating why that happened so it does not occur again...</i></p> <p><b>Your concerns about St George Bank and Swann Insurance</b></p> <p><i>I understand your concerns are as follows:</i></p> <p><i>1. St George provided you with a credit card in 2006 with a \$40,000 credit limit. You say the bank's offer was inappropriate as your annual income was only about \$40,000 and you could not have afforded to service a card with that limit or repay that level of debt. In addition, you say the bank did not provide you with <b>any documents</b> in relation to the <b>purported credit card application or any product description/terms and conditions.</b> You also say that in early 2015 the bank provided you with a copy of a credit application form and card collection form dated 25.02.2006, but that you have never seen these documents before and that the signature on the</i></p>

<sup>228</sup> Credit Corp statements are available upon request.

	application'	<p>credit card collection form is not yours i.e, that there has been fraud.</p> <p>2. At the time it established the credit card facility, St George also established insurance cover in relation to the credit card via Swann Insurance. You say you were not required to sign any documents nor were you provided with any documents in relation to the insurance product. The bank has since informed you the insurance contract was entered into over the phone.</p> <p>3. The credit card debt was on-sold to Credit Corp in 2010. Credit Corp is a debt collection company that subsequently commenced legal proceedings against you.</p> <p>4. The bank failed to conduct a proper investigation of your concerns. Swann Insurance has failed to investigate your concerns.</p>
15	<p>Letter from Credit Corp, Dale Nolan dated <b>20/5/2015</b></p> <p>(Quote - emphasis in bold added)</p>	<p>'...Due to the age of the account a copy of <b>the contract is no longer available...</b>'</p> <p>Note:</p> <p>(a) Credit Corp's <b>SOC/ASOC</b> expressly pleaded a credit contract as a material fact;</p> <p>(b) Credit Corp lawyers never stated the contract is not available. They represent it exists and even represented to the court that all NTP except Para 2 &amp; 3 were complied. The request for contract is in Para 1.</p> <p>(c) The asserted assignment from St George Bank to Credit Corp was in 2009-2010, being less than four years from 2006. (a short period of time and less than 7 years). No credit card contract and insurance contract existed and could not be assigned as they did not exist.</p>
16	<p>Email to <b>CIO</b> dated <b>2/6/2015</b></p> <p>Attn: <b>CIO</b> Case Manager, Gerard Mulligan.</p>	<p>Email to <b>CIO</b> Case Manager after discussion by Mr Adam Carpenter (employee of Credit Corp) who wanted to contact me.</p> <p>Notice was put to <b>CIO</b> which shows there was no genuine process to assist in the resolution and the issue being raised about the credit contract:</p> <p>'Adam has no reference to the discrepancy of the Credit Corp statements which I provided to you with all the document you requested on 13 May. Why was this not provided? He is requiring these statements to be forwarded to him as he is purporting that the statement was not changed. Note that I raised these issues to Credit Corp's legal representative<sup>229</sup> with no response early this year...</p> <p>Adam has admitted that they do not have the signed contract of St George Bank... I did not sign a contract with St George Bank and therefore I require this document, as continually requested from Credit Corp.'</p> <p><b>No credit card contract was provided throughout the CIO process.</b></p>
17	<p>Letter to <b>CIO</b> of the <b>1 July 2015</b>.</p>	<p>Notwithstanding the complaint to FOS which was forwarded to CIO in March 2015<sup>230</sup>, which specifically stated the issues. The following issues were clarified with <b>CIO</b>, (emphasis in bold added):</p> <p>The '<b>Absence of contract and presence of Credit Card collection form which I have never signed or sighted is one of the main concerns of this complaint.</b> "Terms and Conditions" documents which Credit Corp refers to as a part of the <b>Contract was never provided to me by St George Bank, and as such it has no legal force. I have repeatedly asked Credit Corp and their legal representatives, Piper Alderman to provide the proof of the Contract which I still did not receive to this day. I never signed any document with Saint George Bank which could have authorised them to release my information to the third party such as Credit Corp. I dispute the fact that Credit Corp has any rights to claim any funds to the contract existence of which they cannot prove . Credit Corp also has breached privacy laws by obtaining my information from Saint George Bank...</b>'</p>

<sup>229</sup> Piper Alderman received notice in correspondences dated 4 and 5 February 2015, about the manipulation of Credit Corp's statements of the change of interest and amounts which dated back to 2010. The said statements are available upon request.

<sup>230</sup> See Column No.10 in Table under the heading 'Notices RE: Credit and Insurance Contract' in this report.



18	Letter to CIO dated <b>26/10/2015</b> Attn: Raj Venga (CIO Ombudsman) & Thomas Beregi (CIO Board Director and the CEO of Credit Corp).	'CIO never put to me until 10/9/2015, after the date of the complaint he purported to be closed, that he made an assumption in respect to the Swann Insurance, (SI)... <i>SI is connected to the credit card and therefore cannot be investigated separately and must be dealt in its entirety...</i> <i>SI confirmed <b>no SI contract exists...</b></i> <i>The legality of the assignment of debt is at question...'</i>
19	On <b>27/10/2015</b>  Court Order	<b>On 27/10/15</b> as Piper Alderman/Credit Corp <b>failed to comply with the NTP_1</b> . Piper Alderman solicitor, Mr Mennilli, admitted that they had not complied with the said Notice to Produce dated <u>10/2/2015</u> ). The <b>court ordered</b> for Credit Corp to comply with the said <b>NTP_1</b> within 21 days.
20	Letter to Piper Alderman dated <b>13/11/2015</b> :	Correspondence to Piper Alderman/Mr Ammer states, (Emphasis in bold added):  ' <i>The following is my reply to your request for clarification to the Notice to produce dated 10 February 2015, ("NP")... <b>you are to provide all documents and things, in paragraphs 1 to 7, as set out in NP.... Your response to the NP is approx. 10 months after NP was served. No documents have been produced to me...</b></i>
21	Letter to Piper Alderman dated <b>17/11/2015</b>	In response to Piper Alderman's letter dated 16/11/2015, ignoring to respond to issues raised and silent on the notice of their non-production of paragraph 1 to 7 of the said Notice. (Emphasis in bold added):  ' <i>My letter dated 13/11/2015 is clear and confirms the issues you raised in your letter dated 12/11/15. As per the court orders dated 27/10/2015, the notice to produce dated 10 February 2015 ("NP") <b>is due today.</b></i>
22	Notice to Produce Credit Corp/Piper Alderman  dated <b>17/12/2015</b>  (Same paragraphs as the Notice to Produce dated 10/2/2015 with only amendments to Paragraphs 2 and 3)  See to <b>Annexure "C.1"</b>	<b>On 27/10/15 court ordered</b> Credit Corp to comply with the <b>NTP_1</b> within 21 days.  Piper Alderman filed a notice of motion and the parties were before the court on <b>17/12/2015</b> . The Credit Corp/Piper Alderman only sought to the amendment of paragraphs 2 and 3 of the <b>NTP_1</b> in relation to the communications between parties and third parties.  All other paragraphs remained outstanding in particular, Paragraph 1, requesting: '1. A copy of the <b>St George Bank credit card agreement, agreement number 4564851100920368 ("the contract")</b> '. <sup>231</sup>  <b>On 17/12/15</b> - Piper Alderman's Counsel, Mr Hartford Davis, <u>on his first appearance on the matter before court</u> , deliberately misled the court that the said <b>NTP_1</b> had all been complied except paragraphs 2 and 3.  Mr Silva <sup>232</sup> my legal representative who appeared on my behalf at court on 17/12/2015.  I subsequently wrote a letter to Piper Alderman dated 22/1/2016, giving notice of the misrepresentation of their counsel Mr Hartford-Davis at court on 17/12/15. Notice stating: ' <i>your counsel advised the court that all requisition/document on the Notice to produce dated 10/2/2015, had been complied by your client, with exception to paragraphs 2 and 3. That advice to the court is incorrect... to date the NTP has not been complied with and the prescribed time frame on the notice for compliance has now lapsed</i> '. (Piper Alderman did not clarify nor did they address/reply to my said letter).  <b>The NTP dated 17/12/2015 remains outstanding to date, there has been no production of credit card contract in paragraph 1.</b>

<sup>231</sup> Refer to **Annexure "C.1"**.

<sup>232</sup> Despite given written instructions of the issue of not being provided any contract pleaded in the claim, and also given my affidavit sworn 16/12/2015 with a chronology, Mr Silva did not inform the court of the outstanding particulars/documents in the said NTP. Mr Silva allowed the court to be misled by Hartford-Davis, who stated that only paragraphs 2 & 3 were an issue, deliberately omitting to inform the court of the outstanding paragraph 1 of the credit card contract among other materials sought by the said notice. (Mr Silva knew Mr Hartford Davis. Through him, Mr Ford would get in contact with me about my matter. All three are friends from the Bar studies. Mr Ford did not disclose to me that he knew Mr Hartford Davis, only after he made representations at court on 30/3/16 that he had prior discussions with Mr Hartford Davis, agreeing to vacate the hearing 7 April 2016 hearing, See 'Interlocutory Hearing' on p.13 in this report).

23	Letter to Piper Alderman dated <b>25/1/2016</b>	Correspondence to Piper Alderman/Mr Ammer states, (Emphasis in bold added):  <i>'I have not received a reply in relation to the <b>non-compliance of the Notice to produce</b>, dated 17/12/2015'.</i>
24	Letter to Piper Alderman dated <b>2/2/2016</b>	Correspondence to Piper Alderman/Mr Ammer states, (Emphasis in bold added):  <i>'The <b>Notice to Produce dated 17/12/2015 ("Notice")</b>, was served in 23/12/2015 and was not complied within the prescribed time frame...The Notice was served on the Plaintiff in accordance to the address n the Notice. On 22/1/16 and 25/1/16, your client and your office received further correspondence form me in relation to the status of compliance to the Notice. I received no response by you until Friday 29/1/16.... <b>your solicitor<sup>233</sup> and counsel were present enclosed is a copy of the said orders.. The documents produced in accordance to the Notice have the following omission: Paragraph 1<sup>234</sup> ...</b></i>
25	Letter to Piper Alderman dated <b>4/2/2016</b>	Correspondence to Piper Alderman/Mr Ammer states, (Emphasis in bold added):  <i>'... <b>I am still awaiting your reply to my letter dated 2/2/2016 in relation to the Notice to Produce'</b></i>
26	My affidavit evidence sworn <b>26/2/2016</b>	<b>Para 54</b> addresses that the credit contract must be in the written form called "Offer", which was never provided to date; <b>Para 56</b> addresses no disclosure of interest rate, insurance and fees; <b>Para 72</b> addresses Debt of Sale Agreement, where Credit Corp edited out provisions about the compliance with credit laws, obligation not to pursue a debt where St George Bank breached credit laws etc; <b>Para 78</b> addresses my efforts to obtain a credit contract from SGB with the chronology of the events, which I still was not able to obtain; <b>Para 79</b> provide that <i>"I sought clarification [in regards to the pleaded alleged credit contract] from SGB, Swann Insurance and Credit Corp with no success."</i>
27	Notice to Produce to Court dated <b>24/3/2016</b>	Paragraph 1 of the said Notice seeks production of the credit card contract pleaded in the claim:  <i>"The original of the St George Bank, ("SGB") credit card agreement for credit card number 4564851100920368, ("SGB Credit Card"), with disclosed credit card limit, credit card interest rates, fees and insurance policies, its rates and fees."</i>  <b>The NTP dated 24/3/2016 remains outstanding to date, there has been no production including that of credit card contract in paragraph 1.</b>
28	My affidavit sworn <b>6/7/2016</b>	<b>Para 18:</b> <i>"To date I have not seen or been provided a copies of an Offer or any pre-contractual statements in relation to my SGB Credit Card account. The documents remain outstanding."</i>

141. The above are examples of the many exhaustive notices put to Piper Alderman and its client which have been systematically ignored, dismissed, diverted and deflected.
142. **To date, no such pleaded credit card contract, expressly pleaded as a cause of action and a material fact in the claim, has been provided nor produced to the court and tome throughout the proceedings and at the final hearing.**
143. Mr Ford on all occasions before the court at the bar table wilfully and maliciously gave false evidence that 'contract documentation was never provided until 12/1/2015'

**(d) Representations of the Credit Card Contract and Credit Insurance Contract.**

144. The following table provides a summary of the representations from Credit Corp and its Lawyers, Piper Alderman and Certus Partners in relation to the pleaded credit card contract in

<sup>233</sup> The solicitor referred is Ms Miller (Paralegal/JP). I was misled that Ms Miller was the solicitor instructing counsel in court on 17/12/2016.

<sup>234</sup> Paragraph 1 is a request for credit card contract/agreement. Letter dated 2/2/2016 to Piper Alderman available upon request.

their **SOC/ASOC**. The lawyers, Piper Alderman lawyers, its Counsel, Mr Hartford-Davis and Mr Ford, significantly made representations that there is no issue with the contract and it exists.

	Communications	Representations of Pledged Credit Card Contract & Insurance Contract
1	<p>Credit Corp Statement of Claim ("<b>SOC</b>") filed <b>25/7/14</b></p> <p>(served on me 28/10/17).</p>	<p><b>The claim solely pleads the cause of action, pursuant to a credit contract.</b> (There are no alternative pleadings).</p> <p>The <b>SOC</b> refers to the Credit Contract in Paragraphs 3, 4 and 5, as follows, (Emphasis in bold added):</p> <p>'3. On or about 16 February 2006 the defendant <b>entered into a credit card agreement, agreement number 4564851100920368<sup>235</sup> ("the contract")</b> with the St George Bank Limited.'</p> <p>'4. On 4 May 2010 the defendant owed the St George Bank Limited \$24799.75 <b>under the Contract</b> ('the Debt').'</p> <p>'5. On 4 May 2010 the St George Bank Limited assigned to Credit Corp Services Pty Limited its beneficial rights, title and interest to the Debt and its rights against the defendants(s) <b>under the Contract.</b>'</p>
2	<p>Letter dated <b>13/11/2014</b> from Ms Witts (supervised solicitor), of Certus Partners, incorporated legal practice of Credit Corp in reply the <b>RFBP</b> dated 5/11/2014 (in response to the pleaded contract in the <b>SOC</b>).</p>	<p>Ms Witts gave an undertaking/advised the following, (Emphasis in bold added):</p> <p>'We... acknowledge receipt of your letter dated 5 November 2014 addressed to Mr Toda... We advise that <b>we are in the process of collating the relevant documentation</b> and drafting a response to you. We anticipate that we should be in a position to <b>respond to your letter by 1 December 2014.</b></p> <p>We confirm that in the meantime, all legal action has been placed on hold and no further action will be taken without notice to you...'</p>
3	<p>The <b>SOC</b> was served on <b>28/10/2014</b>.</p> <p>A defence filed <b>25/11/2014</b> (Noting the timeframe to file a reply/defence. No production of the pleaded contract provided by Credit Corp).</p>	<p>With no copy of Credit Corp's pleaded credit contract despite 'Request for Further and Better Particulars' for production of their pleaded contract, among other relevant documents, I gave notice to Certus Partner in correspondence dated 25/11/2014 (Emphasis in bold added):</p> <p>'Reference is made to the above matter and to correspondence from Ms Kelly Witts, legal services of Credit Corp Services Pty Limited, dated 13/11/2014 and received 17/11/2014. It is noted on the advice of Ms Witt, that a reply to request for further and better particulars ("FBP"), will be provided by 1 December 2014. Kindly note, a defence has been filed today in response to the Statement of claim, filed 25/7/2014, and <b>that the defendant may seek leave to amend the defence and/or file a cross-claim upon receipt of adequate particulars.</b>'</p>
4	<p><b>7/1/2015</b> - First Return Date. Matthew Mennilli appeared for <b>CC</b></p> <p><b>Orders dated 7/1/2015</b></p>	<p>By consent the parties handed up short minutes of order at court on <b>7 January 2015</b>. An order was made for the Plaintiff to comply with my '<b>Further and Better Particulars within 7 days</b>'.</p> <p>Paragraph 1 of the request for particulars, sought '<b>a copy of the St George Bank Limited, (St. George), contract.</b>'</p> <p><b>Credit Corp/Piper Alderman failed to comply with the Order. No Credit Card Contract or Credit insurance were provided, among others particulars/documents pursuant to the RFBP).</b></p> <p>Note:</p> <p>(a) At court on <b>7/1/15</b>, Mr Mennilli was put on notice of not receiving any credit card contract and he was asked about the non-compliance of the <b>RFBP</b>. His response was effectively '<i>why did you file a defence?</i>' He stated he did not know in respect to the non-compliance of the <b>RFBP</b> and he did not address the question put to him about the provision of the pleaded credit contract.</p> <p>On review of Piper Alderman's invoice, (as Exhibits in Affidavit of Mr Ammer's sworn 15/8/16, See <b>Annexure "B.1"</b>), Mr Mennilli records his attendance on 6/1/2015: '<b>failure to promptly respond to request for particulars</b>'.</p> <p>(b) On 12/1/2015 - I received documents from Piper Alderman, (<b>not a credit contract</b>):</p> <p>(a) Application summary, (b) Card Collection Form, (c) Statements. The Piper Alderman/Mr</p>

<sup>235</sup> This is **not** an agreement number but the credit card number on a credit card.

		Ammer referred to the documents as ' <u>related</u> ' to the contract.
5	Piper Alderman filed Amended Statement of Claim (" <b>ASOC</b> ") on <b>7/1/2015</b>	The <b>ASOC</b> refers to the Credit Contract in Paragraphs 3, 4 and 5, (as above in Column 1 above) amending the amount in paragraph 4 and interest specifically pursuant to the contract in paragraph 8 <sup>236</sup> , as follows (emphasis in bold added): <i>'8. The plaintiff claims...at the rate of <b>8.66% pursuant to the contract</b>'.</i>  The <b>ASOC</b> expressly pleads: a. A material fact - a Credit Card Contract/Agreement <sup>237</sup> , (the cause of action); and b. The interest rate is ' <u>pursuant to the contract</u> ' <sup>238</sup> (The pleadings made no reference to provisions/clauses of any default on the pleaded contract).
6	Amended Defence filed <b>27/1/2015</b> , (" <b>AD</b> ").  No Credit Card Contract as pleaded in claim provided to me.	Prejudiced with no provision of any credit card contract pleaded in the claim. Notwithstanding the <b>RFBP</b> dated 5/11/2014, (Para 1 sought production of the pleaded credit card contract). An Order dated 7/1/2015 was for the compliance of <b>RFBP</b> within 7 days. The <b>RFBP</b> and the said Order were never complied in respect to the credit card contract amongst other particulars/documents.  The Amended Defence expressly denies the contract and entering any contract, which I never seen nor had in possession. The lawyers, Piper Alderman Ms Anne Freeman and Credit Corp's Certus Partners lawyers Mr Carlos Toda, signed the Statement of Claim expressly pleading a credit contract.  It is a standard practice to request such document via further and better particulars. (Para 3 of the Amended Defence states, (emphasis in bold added): <i>'3. The Defendant <b>denies and does not admit the allegations contained in paragraph 3 of the Amended Statement of Claim.</b></i>
7	Letter from Piper Alderman/Mr Ammer's dated <b>12/1/2015</b>  Mr Ammer replies to the request for St George Contract, by listing the documents 1.1 to 1.3, however, stating that such documents are <b>related</b> to the contract.	Piper Alderman/Mr Ammer's letter dated 12/1/2015 in response to my <b>RFBP</b> dated 5/11/2014, requesting for copy of the credit card contract, (Emphasis in bold):  <i>'adopting your number and the terms defined in the Amended Statement of Claim dated 7 January 2015:</i> <i>' 1. We enclose a copy of the following documents <b>relating</b> to the Contract:</i> <i><b>1.1. St George Bank (SGB) Card Collection Application Summary;</b></i> <i><b>1.2 Signed Card Collection Form; and</b></i> <i><b>1.3 SGB Credit Card Conditions of Use (Terms).'</b></i>  <b>RFBP</b> dated 5/11/2014 states on paragraph 'I':  <i>'To adequately respond to the SOC, further and better particulars are requested as follows, following your numbering:</i> <i>I. (3), a copy of the St George Bank Limited, ("St George") contract.</i>  Further Piper Alderman/Mr Ammer states,(Emphasis added):  <i>'a copy of the following documents <b>relating</b> to the assignment from SGB to our client by which our client was assigned all rights, title and interest <u>under the contract</u>:..</i>  <i>'our client reduced the interest rate to 8.99%pa. It was under no obligation to do so.... Our client reserves its rights <u>under the Contract</u> in relation to any changes in the interest rate...</i>  <b>To date, No contract has been provide/produced to me not the court.</b>

<sup>236</sup> Out of 9 paragraphs in the **ASOC**.

<sup>237</sup> Para 3, 4, 5 and 8 of the **ASOC**. **The interest of 8.66% was never supported by any credit card contract.**

<sup>238</sup> Para 8 the **ASOC**. Contrary to the **ASOC**, Mr Carpenter's affidavit sworn 24/3/2015 provides that the '*Interest has continued to accrue on the account since the date of the Assignment at the rate of 8.66% pa.*', that '*the interest rate has been charged by CCS*' [Credit Corp Services] '*on the account since Assignment is 8.66%*' that Credit Corp imposed the 8.66% not pursuant to the credit card contract as pleaded in the ASOC. Mr Carpenter mentions/refers to the credit card contract in his Affidavit misleadingly calling provided non-contractual documents "Defendant's St George Credit Card Contract" without providing such contract.

8	Affidavit of Mr Adam Carpenter sworn <b>24/3/2015</b>	<p>The said Affidavit has a heading: '<b>Defendant's credit card contract</b>' which lists the following documents, (exhibits, Tab 1 to Tab 5), stated to be '<b>related to the contract</b>' (but are <b>not</b> the credit contract nor credit insurance contract):</p> <ol style="list-style-type: none"> <li>1. The Bank's internal 'electronic credit card application form';</li> <li>2. The Bank's internal 'credit card application summary';</li> <li>3. The Bank's general unoriginal photocopied ' card collection form';</li> <li>4. The Bank's general 'Credit Card Conditions of Use dated 1/2/2006'. (Another General Card Conditions of Use dated 1/8/2003 is provide in Exhibit tab 15 of the said affidavit. Both these documents contains no particulars of account, card number, name of person etc.)</li> <li>5. Statements.</li> </ol> <p>(Note: Mr Ammer in correspondence dated 28/1/2016 will refer to Mr Carpenter's Affidavit (1-4) when pressed to reply to outstanding Para 1 (request of credit card contract), of the NTP dated 17/12/2016 ("<b>NTP_2</b>"). See Column No.12 below)</p>
9	Letter from <b>Credit Corp's employee, Mr Dale Nolan</b> dated <b>20/5/2015</b>	'... <b>Due to the age of the account a copy of the contract is no longer available...</b> '
10	<p><b>2 June 2015</b>, Mr Carpenter (Credit Corp Employee) contacts me on the phone.</p> <p>Note: the <b>ASOC</b> pleads a claim with a cause of action pursuant to a credit card contract.</p>	<p>The following conversation effectively took place, Mr Carpenter asserts that no contract is required to be assigned nor required to pursue a their claim and deflects to their agreement with the bank. (Emphasis in bold added):</p> <p>Me: 'The question I have for you is do you have the right of this debt?'  Carpenter: 'What do you mean do we have a right?'  Me: 'do you have the right of this debt, if you say there is assignment of debt - assignment of what?'  Carpenter: 'Okay, well the debt has been assign'  Me: 'No no, <b>Assignment of debt needs to have a contract</b>'  Carpenter: '<b>No its doesn't...</b> and I think.... There is a contract between us and the Assignor ....'  Me: 'Well the credit card does exist but that's not the issue Adam please don't go around in circles..'  Carpenter: 'It is an issue, because the main issue that the court will.. they will care about a few things they will care <b>whether or not there was a contract, I don't need a written contract</b>, they'll care about the fact that you have benefit of these funds... <b>it's a validly owed debt...</b>'</p>
11	Affidavit of Mr Ammer sworn <b>17/11/2015</b> .	<p>Mr Ammer wilfully and deliberately made misrepresentations in his sworn affidavit in relation to their non compliance of the Notice to Produce dated 10/2/2015 ("<b>NTP_1</b>"), stating that the only outstanding paragraphs 2 and 3 in the said <b>NTP_1</b></p> <p>At Para 22, Mr Ammer states, (Emphasis in bold added):</p> <p style="text-align: center;"><b>"As at the time of swearing this affidavit, paragraphs 2 and 3 of the Notice to Produce remain in dispute between the parties."</b></p> <p>(Paragraph 1 of the said <b>NTP_1</b> requesting production of the credit card contract was outstanding when Mr Ammer swore his affidavit, amongst others. The outstanding particulars in the said <b>NTP_1</b> are paragraphs: 1,2,3,4,6 and 7.</p>
12	<b>28/1/2016</b> .	<p>Piper Alderman/Mr Ammer's letter dated <b>28/1/2016</b> in response to the NTP dated 17/12/2016 ("<b>NTP_2</b>"). Mr Ammer's response to paragraph 1 (production of credit card contract )of the NTP states, (emphasis in bold added):</p> <p><b>'In paragraph 1 of the New Notice, the documents our client has which answer that paragraph are the documents at tabs 1-4 of Exhibits "AC1" to the affidavit sworn by Mr Adam Carpenter on 24 March 2015, a copy of which was served on you on 24 March 2015. Please advise us if you require further copies to be provided.</b></p> <p>The documents Mr Ammer refers in tabs 1-4 in Mr Carpenter's affidavit are <b>not the contract nor the contract documents</b><sup>239</sup>. Refer to Column No. 8 above.</p>

<sup>239</sup> The exhibit documents tabs 1-4 of Mr Carpenters affidavit dated 24/3/2015 refer to: (a) Electronic Application form - Tab 1 (b) Application summary - Tab 2 (c) General card collection form - Tab 3 (d) General terms and conditions - Tab 4

13	<p><b>23 February 2016</b></p> <p><u>First meeting with Mr Ford.</u></p> <p>Mr Ford's representations in relation to the credit card contract and credit insurance contract, among other presentations acknowledging - no contracts received.</p>	<p>Mr Ford effectively stated to me and my witness/support person, Mr Bryl from the first meeting on 23/2/2016<sup>240</sup>, among other things, acknowledging no credit card contract or insurance contract were provided to me:</p> <p><b>"...You were not given the terms of the contract. All of those things are easy arguments... they are not going to be able to prove it..."<sup>241</sup></b></p> <p>Further, in reference to compliance with providing credit card contract and compliance with the credit laws/Credit Code, Mr Ford expressly stated to me in respect to the St George Bank, Credit Corp and its lawyers, that: <b>"they breached it [the code]"</b>.</p> <p>Mr Ford made reassuring comments, from the outset, effectively stating to me, <b>"leave it all to me, it's my problem now..."</b></p> <p>Note: Mr Ford's representations to me about the credit contract and his acknowledgement that there is no contract, are contrary to his representations before court (evidenced by Court Transcripts). <b>Mr Ford wilfully gives false statements, effectively that 'contract was provided on 12/1/2015' on every occasion he is before court, at the bar table.</b></p>
14	<p>Before Magistrate Pierce on <b>30/3/2016</b> Mr Hartford-Davis misled the court as to the Contract referring to the card collection form as a "contract".</p> <p><b>At para 50 on page 56 His Honour appears to be completely misled that Plaintiff has provided in the evidence a signed contract, when this is not the case.</b></p>	<p>-HIS HONOUR: '<i>So that was the <b>contract with St George</b>'</i></p> <p>HARTFORD-DAVIS: '<i><b>At that point, your honour, can I ask you to take up the affidavit of Mr Ammer, which I have read and turn to the credit card collection form which is at pp 16 and 17'</b></i></p> <p>HIS HONOUR: 'Yes?'</p> <p>HARTFORD-DAVIS: '<i><b>So your Honour has seen this form and it's signed at the back and there is now a dispute about whether that's the defendant's signature that's on p 17.'</b></i>' [Para 20-25 page 26 Court Transcript 30/3/2016]</p> <p>-HARTFORD-DAVIS: '<i>My submission is in a case where part payments have been made, a bare denial of a contract would not put a party on notice that there was some fraud allegation, that a signature had been forged, that the credit card was unsolicited and never binding.'</i></p> <p>HIS HONOUR: '<i>Well, see, when she denies that there is a contract and especially given the ongoing correspondence from her to you, you would surely expect that there is something afoot in that regard, wouldn't you?'</i></p> <p>HARTFORD-DAVIS: '<i>Absolutely but that sounds like a dispute about particular terms of a contract'.</i></p> <p>HIS HONOUR: '<i>I don't know whether it sounds like that, it sounds to me like you were on notice that she was denying--'</i></p> <p>HARTFORD-DAVIS: '<i>Alleging fraud.'</i></p> <p>[50] HIS HONOUR: '<i>-- the contract altogether and as I was saying before lunch, if you have a signed contract, absent something exotic that we don't think of at this moment that might bear on it, you would have to pretty much be suspecting, wouldn't you, that she either says she didn't sign or there is some other obstacle to the contract coming into existence. I would be very surprised if you hadn't undertaken some investigation as to that.'</i>' [Para 35-5 pages 56-57 Court Transcript 30/3/2016]</p>

(with no particulars of the person/account details/products/interest etc). Note: two versions were provided 2006 and 2003 of the general terms and conditions.

<sup>240</sup> The only document Mr Ford had available to him during our meeting was the affidavit evidence of Mr Adam Carpenter sworn 24/3/2016. It did not contain any credit card contract nor contract documents. Mr Ford attempted to refer to the "card collection form" as the contract, but we promptly clarified that such document is not a contract to which Mr Ford agreed. In hindsight, Mr Ford had from the outset aligned with Piper Alderman and its counsel, Mr Hartford-Davis, representing before the court that the said card collection form is the 'core' document in the proceedings. At the final hearing the said card collection form is heavily relied upon by the lawyers purporting to be a 'written request' in entering a 'credit card' - a different case was presented, of which I was unaware, 'a trial by ambush'.

<sup>241</sup> The statement can be provided upon request.

15	<p>Before Magistrate Pierce on <b>30/3/2016</b></p> <p>Mr Ford wilfully misled his Honour that the Plaintiff provided a credit contract /credit insurance contract. <b>(Contrary to my instructions, evidence and documents and correspondence).</b></p>	<p>FORD: 'Well, <b>what we say, your Honour, was that the earliest she received the St George contract was 12 January 2015.</b>' [Para 30 page 5 Court Transcript 30/3/2016]</p> <p>FORD: '... I will take your Honour to some material <b>where my client says for the first time she received the Swann contracts was, again, only after her making noises about the status of these deductions.</b>' [Para 25 page 8 Court Transcript 30/3/2016]</p> <p>FORD: 'That second notice to produce is dated 17 February 2015 but, <b>your Honour, I say on the record that she did receive the contract documentation on 12 January 2015.</b>' [Para 45 page 12 Court Transcript 30/3/2016]</p> <p>FORD: '... <b>is my friend entitled to rely upon those contract documentation with all their rights for additional interest, exemption fees, late fees, Swann Insurance, if I am correct in my assertion that the defendant never received that material and never signed for it?</b>' [Para 30 page 17 Court Transcript 30/3/2016]</p>
16	<p>Summary of the Plaintiff's case filed at the court dated <b>21/6/2016 and signed by Mr Ammer.</b></p>	<p>'1.... claims the sum of \$24,799.75(<b>Debt</b>), plus contractual interest at 8.66% p.a. of approximately \$15,415.78 (as at 7 January 2015 and which continues to accrue), and costs. 2. The Debt arose out of a credit card contract (Contract)... entered in or about February 2006... 3... CCS will succeed in its claim if it establishes that: 3.1 Ms Odtojan entered the Contract; 3.2 the Debt was incurred by Mr Odtojan under the Contract; and 3.3 the quantum of the claim is calculated correctly CCS will prove that: 4.1 Ms Odtojan entered the Contract and incurred the Debt... pursuant to the Contract (see paragraphs 6-9 of the affidavit sworn by Adam Carpenter on 24 March 2015... 7. The contractual interest rate at which interest is claimed in CSS' Amended Statement of Claim...'</p> <p>Mr Ammer blatantly misleads in court. Credit Corp's own representative Mr Nolan confirms that no contract is available. (See No.9 above)</p> <p>St George Bank representatives I spoke on the phone and via the CIO process confirmed no credit contract was available. The people who represented that the credit card contract existed and was not an issue is Credit Corp's lawyers Piper Alderman/Certus Partners, Counsel Mr Hartford Davis, Credit Corp employee Mr Adam Carpenter, Mr Ford (who gave specific evidence at the bar table that contract was provided on 12/1/2015) and Mr Glynn assisting Mr Ford. This includes Senior Counsel Miles Condon who assisted Mr Ford in providing misleading and improper appeal advice, committing intentional negligence.</p> <p><b>No credit contract nor contract documents have been produced nor provided to date. It does not exist.</b></p>
17	<p>My email to Mr Ford and Mr T.Glynn sent at 11:17am on 14/7/2016 in regards to <b>Statement of Agreed Facts and Issues which Mr Glynn emailed to me on 13/7/2016.</b></p> <p><b>Mr Glynn's email</b> he sent at 11:22am 14/7/2016 replying to my email (above) in regards to <b>SAFI.</b></p>	<p>'Tom... would like you to consider the following: · <b>The definition of the contract is broadly defined and should be defined pursuant to the credit law.</b> · <b>Throughout the facts and issues, 'contract' is consistently referred to and should be referred as 'alleged contract' as the contract itself is an issue. ...Marie'</b></p> <p><b>Note: Despite clear instructions in email, the version of Statement of Agreed Facts' (SAFI) handed in to court on 18/7/2016 was not the same version represented to me by Mr Glynn on 13/7/2016.</b></p> <p>My purported legal representatives disregarded my instructions. <b>Mr Glynn had only been in the matter for two days and he had grossly misled me.</b> The version submitted to the court by Mr Ford and Mr Glynn <b>eliminated the issue of the contract</b>, among with other editions, which I was not aware of, such as inserting a date 25 February 2016 (<b>not pleaded</b>), and was made a material date which Magistrate Freund relied in her judgment.</p> <p>The final hearing was a conduct as a 'hearing by ambush'. The case presented to the court was not the pleaded case in the <b>ASOC</b>. When I went to the court in July 2017 to inspect the court file, I discovered that Mr Ford and Mr Glynn tampered with the <b>SAFI</b> and submitted a different version of <b>SAFI</b> to the court, which contained false representations I was not even aware of.<sup>242</sup></p> <p><b>TG emails MO:</b> 'OK, thanks. I will talk to Nick later today. Regards Tom Glynn'</p>

<sup>242</sup> All documents available upon request.

<p>18</p>	<p><b>Final hearing 18-19 July 2016</b></p> <p>Mr Hartford-Davis misled the court as to the Contract.</p> <p>At Para 10 on page 160 of Court Transcript 19/7/2016</p> <p><b>Mr Ford eliminated the issue of the credit card contract and all applicable statutory legislation</b> and states that a signature on a card collection form is 'Issue 1' in the proceedings.</p>	<p>HARTFORD-DAVIS: '<i>...The plaintiff's claim is for the sum outstanding and interest calculated from time to time at a simple interest rate of 8.66%. <b>That is half of the contractual interest rate that was agreed with St George...</b></i>' [Para 15 page 9 Court Transcript 18/7/2016]</p> <p>[20] HARTFORD-DAVIS: '<i>Yes, your Honour. <b>The first thing that isn't being read is at p 26, using the numbers in the bottom right-hand corner, at Para 6, the words "entered into a credit card contract". Those words aren't read. That's an ultimate issue in the case. I need to keep the rest of it because, your Honour sees, there are definitions there that are being used subsequently.</b></i>' [Para 20 page 11 Court Transcript 18/7/2016]</p> <p>HARTFORD-DAVIS: '<i>If your Honour finds that that signature is the defendant's signature, then your Honour will have to reject both contentions that the card was unsolicited <b>and the contract documentation wasn't provided or explained.</b></i>' [Para 50 page 146 Court Transcript 19/7/2016]</p> <p>HARTFORD-DAVIS: '<i>...in alleging the contract formed on 16 February, which is what my <b>pleading does - for some reason the onus is on me to prove a signature in a document that has gone in as a business record.</b> That, in my respectful submission, is not correct, that submission that was put to your Honour, so I just invite my friend to address it in submissions. If your Honour would grant me leave to address it in a page--'</i></p> <p>HER HONOUR: '<i>Leave to reply to that submission, if required. Mr Ford?'</i></p> <p>[10] FORD: '<i>Very quickly, your Honour. <b>It's plainly an issue in dispute in the agreed statement of facts and issues, it's noted as issue 8 but it's really issue 1.</b> It is an assertion that this plaintiff has made from the beginning of this case, that is her signature on that document.</i>' [Para 5-15 page 160 Court Transcript 19/7/2016]</p>
<p>19</p>	<p><b>18 and 19 July 2016</b></p> <p><b>Representations by N.Ford at the final hearing on 18-19 July 2016.</b> Mr Ford and Plaintiff witness Mr Carpenter were together misleading the court as to the credit card contract.</p> <p><b>Both N.Ford and Mr Carpenter knew that no contract was ever provided by the Credit Corp/ on 12/1/2015, not before, not after that.</b></p>	<p>FORD: '<i>Yes. One of the issues that has survived in the issues of dispute handed up today, Para 14, p 3, <b>is whether or not the contract was varied in a manner to which I've pleaded in Para 10F of the further amended defence.</b></i>' [Para 25 page 10 Court Transcript 18/7/2016]</p> <p>FORD: '<i>In fact, <b>the defendant's position is that the first time she received the contract documentation from the plaintiff was 12 January 2015.</b> You're aware that that is her assertion?'</i></p> <p>CARPENTER: '<i><b>Yes. That rings true, yes.</b></i>' [Para 50-5 page 41-42 Court Transcript 18/7/2016]</p> <p>FORD: '<i>The following matters were also not put to this witness, and these are crucial. She always has said, <b>"I did not receive the contract documentation until after these proceedings were commenced and then on 12 January 2015.</b></i>' [Para 10 page 154 Court Transcript 19/7/2016]</p> <p>FORD: '<i>If you are satisfied that she did not attend the branch on 25 February and if you are satisfied that she did not make the declaration in that document, which appears at tab 3 of Carpenter's affidavit, as night follows day, then your Honour must be satisfied that she did not enter into an agreement as asserted by the plaintiff, <b>with the consequence that the plaintiff is not entitled to the contract terms that they are asserting, the interest charges, the fees.</b> A finding must follow that she did not agree to the Swann insurance, despite the deductions.</i>' [Para 30 page 155 Court Transcript 19/7/2016]</p> <p>FORD: '<i>Was she vulnerable at the time? She was. <b>Was this predatory lending practice? I can't, on her evidence, put it that high.</b></i>' [Para 10 page 158 Court Transcript 19/7/2016]</p>



20	<p><b>Magistrate Sharon Freund did not ask any questions nor made any enquiries</b> about credit card contract and insurance credit contract, throughout the final hearing 18-19 July 2016</p>	<p><b>MAGISTRATE FREUND ASKED NO QUESTIONS NOR MADE ENQUIRIES ABOUT THE PLEADED CREDIT CARD CONTRACT AND CREDIT INSURANCE CONTACT THROUGHOUT THE ENTIRE TWO DAY HEARING.</b></p> <p><b>MAGISTRATE FREUND NEVER SOUGHT TO IDENTIFY NOR SPECIFY WHAT THE PLEADED CONTRACT BEING SUPERFICIALLY REFERRED BY:</b></p> <ol style="list-style-type: none"> <li><b>1. Credit Corp Employee Mr Carpenter.</b></li> <li><b>2. Piper Alderman and its Counsel, Mr Hartford-Davis;</b></li> <li><b>3. Mr Ford and Mr Glynn.</b></li> </ol> <p><b><u>The bank employee witness, Mr Trevor Bowen, was never asked any question about the credit card contract neither did he refer to any credit contract.</u></b></p>
21	<p><b>Written Submission</b> filed by Plaintiff's Counsel Mr Hartford-Davis, dated 19 July 2016 (document purportedly written by Mr Hartford Davis).</p>	<p><i>'It follows, and the Court should find, that St George provided the defendant with the terms and conditions applicable to the credit card contract, and explained those terms including the credit card insurance, and that she understood or at least represented to St George that she understood them at the time.'</i> [Para 17 page 6]</p> <p><i>'(a) the Court should reject the contention that the defendant did not receive contract documentation (see [15] above);'</i> [Para (a) 41 page 10]</p> <p><i>'(i) Particular (viii) bundles up two matters. The first is the alleged failure to supply contractual documentation - this contention should be rejected (see [18] above). The second is premised on the supposition that there might have been negotiation with St George. However, this was a standard form consumer contract that would not ordinarily involve negotiation (see [41(a)] above).'</i> [Para (i) 41 page 11]</p> <p><i>'Paragraph 10B of the Further Amended Defence places reliance on the predecessors to s 76 of the National Consumer Protection Act 2009 (Cth). Section 76 was not in force at the time that the defendant entered into the St George credit card contract...'</i> [Para 44 page 12]</p>
22	<p><b>Written Submission</b> by Mr Ford dated 29 July 2016,</p> <p>Draft of which he emailed to me on 28 July to "review overnight".</p>	<p style="text-align: center;"><b>Draft of Written Submission by Mr Ford</b></p> <p><i>'...defendant did not receive the contract documentation until 12 January 2015, after these proceedings were commenced.'</i> [Para 5g page 2]</p> <p><i>'a. That she did not receive the contract documentation until 12 Jan 2015;'</i> [Para 24 page 10]</p> <p><i>'The particulars continue stating that she did not receive the contract documentation until 12 January 2015 after these proceedings were commenced.'</i> [Para 34 page 15]</p> <p><i>'It is argued that if the court finds that the contract documentation was not received by the defendant until 12 January 2015, then it would not be in good conscience for the plaintiff to insist upon these terms.'</i> [Para 39 page 18]</p> <p><i>'The particulars of unconscionability are repeated in support that the terms are unjust. They are unjust because the defendant did not receive the contract documentation until 12 January 2015, after these proceedings were commenced.'</i> [Para 41 page 18]</p> <p><i>'as she says she did not receive the contract documentation until 12 January 2015.'</i> [Para 47b. page 20].</p> <p><i>'It is submitted that the court ought to find the factual matrix in favour of the defendant's version of the evidence and as such the defendant did not agree to all of the terms and conditions that appear in the SGB contract documentation, including the Swann Insurance.'</i> [Para 55 page 24].</p> <p><b><u>I never gave any instructions to Mr Ford as for above and never told him I received credit card contract on 12 January 2015. There is no credit card contract admitted in the evidence.</u></b></p> <p>The above submissions are false and misleading. Mr Ford only provides me the draft submission to review at 11:23am stating to review 'overnight'. With very limited time, the only additions were inserted and sent at <b>2am</b> to Mr Ford and <b>final 1 August 2016</b>. Although there were contrary statement Mr Ford never sought clarification or my instructions on the matter and simply filed to the Court. Mr Glynn was nowhere on the matter.</p>

**Written Submission** by Mr Ford dated 29 July 2016,

Emailed to me on 28 July to "review overnight".

**NOTE:**  
Upon reading Mr Ford's draft of Submissions, I discovered that Mr Ford does not state that I never received any credit contract and credit insurance contract.

**I urgently edited and emailed the Submissions back to Mr Ford, putting the issue of the contract in it: 'OFFER AND PRE-CONTRACTUAL DOCUMENTS NEVER PROVIDED.'**

**Mr Ford filed the Submissions on 1 August without providing any advice or having any discussion with me.**

Upon reviewing the above statements, I made amendments to the submissions inserting the following statements (below). **Mr Ford submitted edited by me "Submissions" without saying anything to me or advising me.**

**My additions to (Mr Ford's ) written submissions:**

'a. The defendant further asserts that she has never received the Offer and Pre-contractual documents referred to in the Terms and Conditions'. [Para 5g page 2]'

**OFFER AND PRE-CONTRACTUAL DOCUMENTS NEVER PROVIDED TO DEFENDANT AT ANY TIME & NOT TENDERED IN EVIDENCE**

17. The court is referred to the two terms and conditions, ("TAC"), effective on 1 Aug 2003 and 1 Feb 2006 relied upon by the plaintiff. Both the TACs consistently referred to an "Offer". To date, no Offer documentation has been provided to the defendant. No Offer has been tendered by the plaintiff and no Offer is in evidence before the court.

18. Both the TACs state:

a. ***This document does not contain all the terms of this agreement or all the information we are required by law to give you before the agreement is formed. Further terms and information are in the Offer.***

b. Under the information statement, under the heading 'The Contract', it states:

***Your credit provider must give you a pre-contractual statement containing certain information about your contract. The pre-contractual statement and this document must be given to you before:***

- ***Your contract is entered into or;***
- ***You make an offer to enter into the contract, whichever happens first.***

19. The Offer and pre-contractual statement were not provided to the defendant and have **never been produced by the plaintiff**. These documents are relevant as the TACs are relied by the plaintiff and give the standard practice and procedure at the time the credit card was issued and provided to defendant. Both TACs indicate what is required from SGB, specifying what documents are to be provided to the consumer prior to entering the contract or making an offer to enter into the contract.

20. Reference to the TACs, Offer and pre-contractual statements were made in the Affidavit of Marie Odtojan sworn 26 February 2016 at page 7 and 8. The defendant was not cross examined on these assertions and this will be the subject of detailed submissions below.

21. Further, the TACs cannot form part of the contract as they were not provided to the defendant at the time credit card was issued/received. In *Baltic Shipping Co v Dillon (The Mikhail Lermontov)*<sup>[1]</sup> Kirby P said "... The respondent had not had reasonable opportunity to see and agree to the terms and conditions which the appellant sought subsequently to impose... Thus the mere presentation by the appellant to the respondent... with its terms and conditions would not fix the respondent with acceptance of those terms and conditions". It is respectfully submitted that the TACs do not form part of any contractual relations between the plaintiff and the defendant and no alternative pleading is relied upon by the plaintiff. This will be the subject of detailed submissions below. The plaintiff has, therefore, not discharged its onus of proof that the TACs form part of the contract.

31d. *That the defendant was never cross examined and challenged on her assertion that she has never received the Offer and the TACs, noting of course that these crucial documents have never been produced by the plaintiff and were not tendered in evidence before the court.*

33. *If she is accepted as a witness of truth then your Honour would accept her evidence that she did not attend the bank on the 25<sup>th</sup> February 2006 and sign the Declaration and that she has never received the Offer and the TACs.*

39. *No evidence was provided by the plaintiff as to the failure to produce the Offer and the TACs.*

81. *The Offer and the TACs referred to above have never been received by the defendant and so therefore cannot form part of any contract between the plaintiff and the defendant. The authorities make it clear that in the absence of proof that the TACs were provided to the defendant, then those particular terms and conditions cannot form part of the contract; Baltic Shipping. No alternative pleading has been advanced by the plaintiff.*

82. *In circumstances where the plaintiff has failed to produce seminal contract documents including the:*

- a. Offer;
- b. TACs; and
- c. Swann Insurance Proposal.

*the court would find that the defendant did not agree to the contract as alleged in the Amended Statement of Claim or at all.*

24	<p><b>Written Reply</b> to Defendant's Submissions filed by Plaintiff's Counsel Mr Hartford-Davis on 3 August 2016 and dated <u>19 July 2016</u> (Purportedly written by Mr Hartford Davis).</p>	<p>Despite the fact that I raised serious issues that credit card contract ("Offer") was never provided in evidence, in 'PLAINTIFF'S SUBMISSIONS IN REPLY' filed by Mr Hartford Davis on behalf of the Plaintiff on 3/8/2016' <b>the word "contract" was not used once and there was no single reference to the issue of the credit card contract.</b></p> <p><b>Plaintiff's submissions filed at court on 19/7/2016 referred to the "credit card contract" as if it is a material document admitted in the evidence.</b></p>
25	<p>Affidavit of Mr Florian Ammer, Partner of Piper Alderman sworn <b>15/8/2016</b>. Itemised invoices in Exhibits.</p>	<p><i>'Allegations of unconscionable conduct by St George and the Plaintiff in entering the credit contract and pursuing the debt...'</i> [Para 45.1 page 11 of the Affidavit]</p> <p>On review Piper Alderman's itemised invoices there are no records of any attendances /records/review of any credit contract or credit insurance contract.</p> <p>Piper Alderman brought said affidavit to the court on 16/8/2016.</p>
26	<p><b>No production of the credit card contract.</b></p>	<p>No production of the credit card contract and no production of the credit card insurance contract under subpoena and not produced in evidence at the final hearing and throughout the entire court proceedings.</p> <p>Piper Alderman/Mr Hartford Davis, Mr Ford and Magistrate Freund all unanimously refer to the "credit card contract" as to a material document admitted in evidence, which is a gross lie concocted by the colluded lawyers in this case.</p> <p><b>Magistrate Freund, my purported legal representatives Mr Ford, Mr Glynn and Mr Condon refused to clarify what is the credit card contract in the case.</b></p>
27.	<p><b>16/8/2016. Judgment date.</b></p> <p><b>Magistrate Freund handed down the judgment.</b></p> <p>The judgment was not determined pursuant to any credit contract or the applicable laws.</p>	<p>At court on 16/8/2016, Piper Alderman law clerk Mr Nanlohy (who was impersonating barrister Mr James Willis) made an application to have a cost argument on the date. Magistrate Freund stated that she needs Mr Ford for the costs argument. Mr Ford was not present. Magistrate allocated the date of 29 September 2016 for the costs argument based on Mr Ford's availability.</p> <p>On 16/8/2018 Mr Nanlohy attempted to hand up to the court <b>Mr Ammer's sworn affidavit with the Exhibits of bill of costs (invoices/costs attendances)</b>. Magistrate Freund asked for the affidavit to be filed on 29/8/2016.</p> <p>Piper Alderman delivered said affidavit to Mr Glynn. Mr Glynn and Mr Ford withheld said affidavit from me until 20 September 2016. I was unable to view/respond to Credit Corp/Piper Alderman's costs at the cost hearing.</p> <p><b>The judgment refers to the "credit card contract" as if it is admitted in the evidence.</b></p> <p><i>'The heart of Ms Odtojan's defence is that she denies attending the St George Castle Hill Branch on 25 February 2006 and signing the "Card Collection/ Overdraft/Get Set Checklist declaration" form on that day, when it is alleged by Credit Corp that she collected the Credit Card...'</i><sup>243</sup></p> <p><b>This was never the 'heart of my case'. This case is a different case to what was put to answer and this was not my defence</b><sup>244</sup>.</p> <p><b>The extensive Further Amended Defence of 11 pages, which was not even referred to/ventilated by Mr Ford at the two day final hearing, was reduced to denying 'attending the St George Bank' and 'signing a card collection form'.</b></p>
29	<p><b>Costs hearing on 29 August 2016.</b> Mr Ford continued giving false evidence that credit card contract was provided to me on 12 January</p>	<p>Mr Ford appeared at the cost hearing without any documents, without Piper Alderman's cost court documents (Mr Ammer's affidavit dated 15/8/2016) with its invoices/ Bill of costs, which he and Mr Glynn withheld from me. I did not know what was in the affidavit and how much plaintiff's costs were. I had no knowledge that Plaintiff's costs were <u>approximately quarter million dollars</u>, I <u>only found out the costs amount on 20/9/2016 when Mr Ford finally gave me the costs documents.</u></p> <p>At the cost argument, Mr Ford did not mention Plaintiff's costs amount, made no argument against</p>

<sup>243</sup> Para. 7 p.4 in the Judgment dated 16/8/2016 by Magistrate S.Freund. Available upon request.

<sup>244</sup> This was from Mr Ford's 'Case Outline', which he never put to me and I had no knowledge that it was handed up to the court. I only got a copy of the said outline upon inspection of the court file in July 2017.

	<p>2015 (despite different facts in written Submissions filed by him on 1/8/2016)</p>	<p>the costs, stating, as evidenced by the transcript, it is "for the costs assessor". Further, Mr Ford continued giving false evidence (refer to the excerpts from the Transcript, below). Magistrate Freund heavily relied on Mr Ford's false evidence in her costs judgment giving the Plaintiff indemnity costs.</p> <p>FORD: <i>'The offer of compromise of 17 December 2014 was served on my client, and on my case, Ms Odtojan did not receive the contract documentation until 12 January 2015. Now, I appreciate your Honour made findings in relation to what now--'</i></p> <p>HER HONOUR: <i>'What was that date that you say she didn't - I can't remember the dates--'</i></p> <p>FORD: <i>'12 January 2015, that has always been her case and you may recall that she issued--'</i></p> <p>HER HONOUR: <i>'Yes.'</i> [Para 45-5 page 5-6 Court Transcript 29/8/2016]</p>
<p>30</p>	<p><b>Costs Order/Indemnity Costs Order handed down on 2/9/2016</b> by Magistrate Freund.</p>	<p>From Magistrate Freund's Costs Order:</p> <p><i>'Mr Ford, counsel for Ms Odtojan submitted in essence that at the time the Offer of Compromise was served on Ms Odtojan she had not received the contract documents and did not receive them until 12 January 2015. This he emphasized, was always her case. Accordingly, he argued Ms Odtojan was not in position to assess or "test" whether it was reasonable to reject the Offer of Compromise and indemnity costs should not flow in the circumstances.'</i></p> <p>[Judgment at Para 9 at page 5]</p> <p><b>Indemnity costs order for over \$213,000 on a \$40,000 claim was given by Magistrate Freund and was solely based on the false evidence given at the bar table by Mr Ford. Magistrate Freund heavily relied on false evidence solely given by Mr Ford, who she specifically asked to appear for the cost argument.</b></p>
<p>31</p>	<p><b>12/9/2016. Meeting for an appeal advice. Representations made by Mr Ford</b> about credit card contract at the meeting with Senior Counsel Mr M. Condon for an appeal advice on 12/9/2016.</p>	<p>Mr Condon: <i>'So, the position is, they never produced a credit contract, signed by the credit provider, is that right?'</i></p> <p>FORD: <i>'Correct... They never produced the primary documents...'</i></p> <p>Mr Condon: <i>'Is there a signed contract?'</i></p> <p>FORD: <i>'They didn't prove that.'</i></p> <p>Mr Condon: <i>'So there is no signed contract by the bank?'</i></p> <p>FORD: <i>'The Offer and pre-contractual documents were never provided.'</i></p> <p>Mr Condon: <i>'So there is no evidence of the signed contract, is that right?'</i></p> <p>FORD: <i>'No.'</i></p> <p>FORD: <i>'Your question has to be - if there is no compliance with the Code, does that extinguish the debt even if the earliest contract does not exist?'</i></p>
<p>32</p>	<p>Mr Ammer/Piper Alderman Submissions dated <b>27/4/18</b> in the Cost Assessment Application process filed by Piper Alderman/Credit Corp on <b>9/1/2018</b>.</p>	<p>In the submissions, Mr Ammer:</p> <p>(a) never refers that a debt pursuant to credit card contract as per pleadings in the <b>SOC/ASOC</b>. Mr Ammer states that this matters is a <i>'straightforward debt claim'</i>;</p> <p>(b) heavily relied on a card collection form and represents the core material dispute between the parties is the signature on a card collection form. (Never pleaded in ASOC, never mentioned in the Plaintiff's Case Outline dated 21/6/2016 and only became a core issue when Mr Ford got involved in the matter;</p> <p>(c) Representations in the submission confirm that a different case was presented at the final hearing and it was a <i>'hearing/trial by ambush'</i> in collusion of the lawyers assisted by Magistrate Freund.</p>

## C. CONDUCT

### i. Gross Dishonesty, Misleading and Deceptive Conduct

#### (a) The Pledged Credit Card Contract in the Claim.

145. From the outset, **the court and I were misled** by Credit Corp and its lawyers, Certus Partners and Piper Alderman<sup>245</sup> in filing a **false** claim, expressly pleading a 'Credit Card Contract/Agreement':

- (i) as a cause of action<sup>246</sup>;
- (ii) being a material fact<sup>247</sup>;
- (iii) was entered by the parties/me 'on or about 16 February 2006'; and
- (iv) had an interest of '8.66%'<sup>248</sup>

146. The **SOC/ASOC**:

- (i) contained a **false** pleading of a cause of action - credit card contract<sup>249</sup>;
- (ii) demonstrated, from the outset, the **premeditated conduct to mislead, deceive, defraud and pervert the administration and the course of justice** by Credit Corp and its lawyers, Piper Alderman/Certus Partners;
- (iii) showed **wilful and deliberate contravention** of s80(1)(a) of the Consumer Credit Code/s88(1)(a) of the *National Credit Code*<sup>250</sup>.

147. The pleaded credit card contract was put into dispute from the outset. Refer to the following in this report:

- The repeated exhaustive notices in respect to the issue of the pleaded credit card contract and relevant material under the heading '*Notices RE: Credit and Insurance Contract*' and its table. (From page 42);
- The '*Non-Application of Applicable Legislation in this Case*', (from page 34);
- Piper Alderman, its counsel Mr Hartford Davis and Mr Ford's wilful and deliberate misleading representations of the pleaded credit card contract and other documents. (i. '*Interlocutory hearing*' in page 13; ii. '*Final Hearing*' on page 18; iii. '*Representations of Credit Card Contract and Insurance Contract*' on page 50).

#### (b) Account and Business Documents.

148. Piper Alderman have consistently demonstrated their malicious and premeditated conduct to **grossly mislead, deceive and act dishonestly** from the outset of the main proceedings and deliberately perpetuated in the Supreme Court - Cost Assessment process:

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<sup>245</sup> Certus Partners Principal Solicitor Carlos Toda and supervised solicitor, Kelly Witts, who was actively involved in the matter up to the end of March 2015, (Refer to Piper Alderman's invoice in **Annexure "B"**); Piper Alderman, Anne Freeman (Partner) is the solicitor on record, Mr Ammer was acting solicitor in charge at the time in reference to Piper Alderman's invoice in **Annexure "B.1"**.

<sup>246</sup> Para 3,4,5 and 8 of the **ASOC**. The interest of 8.66% was never supported by a contract.

<sup>247</sup> Expressly pleading a credit card contract/agreement as a cause of action, the Credit Corp and its lawyers (solicitors who signed the claim) made representation to the court and opposing party that the credit card contract is a material fact and it exists.

<sup>248</sup> Para 8 the **ASOC**. Contrary to the **ASOC**, Mr Carpenter's affidavit sworn 24/3/2015 provides that the '*Interest has continued to accrue on the account since the date of the Assignment at the rate of 8.66% pa.*', that '*the interest rate has been charged by CCS*' [Credit Corp Services] '*on the account since Assignment is 8.66%*' that Credit Corp imposed the 8.66% not pursuant to the credit card contract. Mr Carpenter refers to non-contractual documents in his affidavit and misleadingly calls them "St George Credit Card Contract" (page 3 of his Affidavit dated 24/3/2015).

<sup>249</sup> Non-existence of the pleaded credit card contract and of related credit insurance contract.

<sup>250</sup> Credit contracts are governed by credit laws; See '*Background of Applicable Legislation*' on p.31 in this report.

- (a) Filing: (i) a false claim (as above) and (ii) a defective Costs Assessment Application (**CAA**) with fabricated and manipulated cost attendances filed at the Supreme Court on 9/1/2018 for the cost assessment process<sup>251</sup>;
- (b) Assisting its client to provide tampered and manipulated Credit Corp account statements<sup>252</sup> to align with their pleadings of an interest rate of '8.66% *pursuant to a credit contract*';
- (c) Piper Alderman's invoices (22 tax invoices in total, from December 2014 to August 2016)<sup>253</sup> contain no cost attendance/cost record of any attendances/references to any credit card contract/credit contract or credit insurance contract;

On 30/3/2016 Piper Alderman/Counsel Mr Hartford Davis misled the court that Piper Alderman and its client had no participation in the **CIO** process. However, during the time the matter was in the **CIO**, Piper Alderman constantly in attendance to its client participation of the **CIO** process and was aware of what transpired said process as evidenced in Piper Alderman's cost attendances<sup>254</sup>;

**(c) Requests/Notices/Orders to Produce the Pleaded Credit Card Contract.**

149. Piper Alderman made deliberate misleading representations in relation to requests/notices/orders<sup>255</sup> to produce the pleaded credit card contract, amongst other relevant documents:

- (a) Request and Notices: (i) **RFBP** dated 5/11/2014<sup>256</sup>, (ii) **NTPs** dated 10/2/2015<sup>257</sup>, 17/12/2015<sup>258</sup> and 24/3/2016<sup>259</sup>;
- (b) Court Orders: (i) Order dated 7/1/15 (plaintiff to comply with **RFBP** within 7 days), (ii) Orders dated: 27/10/2015 (Plaintiff to comply within 21 days to the NTP dated 10/2/2015) and (iii) 17/12/2016 court ordered by consent and NTP dated 24/3/2016.<sup>260</sup>

150. Refer to the following in this report:

- The repeated exhaustive notices in respect to the issue of the pleaded credit card contract and relevant material under the hearing '*Notices RE: Credit and Insurance Contract*' and its table. (From page 42);
- Piper Alderman, its counsel Mr Hartford-Davis and Mr Ford's wilful and deliberate misleading representations of the pleaded credit card contract and other documents. (i. '*Interlocutory hearing*' in page 13; ii. '*Final Hearing*' on page 18; iii. '*Representations of Credit Card Contract and Insurance Contract*' on page 50).

<sup>251</sup> Refer to the '*Supreme Court - Assessment Application*' on p.90 in this report.

<sup>252</sup> Tampered and manipulated account statement produced for the purpose of the court proceedings is contrary to earlier statements provided by Credit Corp prior the court proceedings. When the said statements are compared, it can be seen that the interest rate and amount as far back as five years from the date of the statement was issued has been wilfully manipulated so that the interest amount and rate are adjusted to correspond with the interest rate pleaded in the **SOC/ASOC**.

<sup>253</sup> In Tab 1 of Exhibits in the Affidavit of Mr Florian Ammer sworn 15/8/2016 (Deliberately omitted to be provided in the Cost Assessment process).

<sup>254</sup> Ibid.

<sup>255</sup> See **Annexes "C"- "C.1"**.

<sup>256</sup> On 13/11/2014 in response to the **RFBP**, Ms Witts of Certus Partners made representation/gave an undertaking that particulars/documents would be provided by 1/12/2014 and proceedings to be put on hold. **Solicitor Ms Witts of Certus Partners honoured none of the said representations.**

<sup>257</sup> An NTP dated 10/2/2015 ("**NTP\_1**") was served on the Plaintiff, which was similar to the **RFBP**. The said notice sought the outstanding particulars, such as a copy of the pleaded credit card contract, insurance contract and authority among others. Piper Alderman invoices demonstrate the blatant disregard for the said **NTP\_1**, which is to be complied within 14 days. On 27/10/2015 a court order was made for the Plaintiff to comply with the said **NTP\_1**. Mr Mennilli made an undertaking for its compliance. (Refer to **Annexure "C.1"**).

<sup>258</sup> The Plaintiff's notice of motion, to set aside Paras 2 and 3 of **NTP\_1**, brought the parties before court on 17/12/2015, ("**NTP\_2**") The Plaintiff only sought to amend Para 2 and 3 of the said NTP. By consent the parties redated the NTP dated 17/12/2016. The only amendments made were Para 2 and 3. Para 1, 4-7 remained. Para 1 of the NTP requested copy of the credit card contract and the other documents. The **NTP\_1** and **NTP\_2** were never complied with to date.

<sup>259</sup> Mr Ford was involved in this matter at this time. The NTP was not complied, no provision of credit card contract.

<sup>260</sup> Copies of the **RFBP** and NTPs are in **Annexes "C" to "C.3"**.

- Wilful omission by Mr Ammer and Mr Mennilli in their sworn affidavits of their failure to comply with **RFBP**, notices to produce and Orders to produce the pleaded credit card contract among other documents. (See to '(e) Affidavits sworn by Piper Alderman' from page 64 below).

151. Piper Alderman/Mr Ammer (Partner) deliberately made misrepresentations in response for production of their pleaded contract as follows:

(a) Piper Alderman/Mr Ammer's letter dated 12/1/2015 (in response to my **RFBP** dated 5/11/2014) provides, (emphasis in bold added):

*'adopting your number and the terms defined in the Amended Statement of Claim dated 7 January 2015:*

*' 1. We enclose a copy of the following documents **relating** to the Contract:*

*1.1. St George Bank (**SGB**) Card Collection Application Summary;*

*1.2 Signed Card Collection Form; and*

*1.3 SGB Credit Card Conditions of Use (Terms).'*

The above listed documents are **neither a Credit Card Contract nor the Credit Insurance Contract**. The 'SGB Credit Card Conditions of Use (Terms)' is a non-contractual document, it is a general bank brochure, a booklet which contains no particulars: no product details, no credit limit, no interest/rates/fees, no specific information of any product, no particulars of the consumer nor the credit card particulars.

(b) Piper Alderman/Mr Ammer's letter dated **28/1/2016**, in response to my consistent pressing for production of paragraph 1 of NTP dated 17/12/2016 ("**NTP\_2**"), which sought the pleaded the credit card contract. Piper Alderman/Mr Ammer blatantly misleads me and misrepresents that the contract has been compiled and produced, as follows, (Emphasis in bold added).

*'**In paragraph 1 of the New Notice, the documents our client has which answer that paragraph are the documents at tabs 1-4 of Exhibits "AC1" to the affidavit sworn by Mr Adam Carpenter on 24 March 2015, a copy of which was served on you on 24 March 2015. Please advise us if you require further copies to be provided.***

The documents, which Mr Ammer refers in tabs 1-4 in Mr Carpenter's sworn affidavit, are not a credit contract<sup>261</sup>. Under the heading '**Defendant's credit card contract**' as Exhibits, Tab 1 to Tab 4, in the said affidavit, only provides documents, which state to be '*related to the contract*' (**not** a credit card contract):

a. Internal Bank's '*electronic credit card application form*';

b. Internal Bank's '*credit card application summary*';

c. '*card collection form*';

d. The Bank's General '*Credit Card Conditions of Use dated 1/2/2006*'. (Note: Another Bank's General '*Card Conditions of Use dated 1/8/2003*' is also in exhibit, in tab 15 of the said affidavit. Both these documents contain no particulars, no particulars/specification of consumer names, details, no specific product, no account details, number etc.)

152. Piper Alderman/Mr Ammer is **grossly dishonest and misleading** in representing the above documents, in paragraph 151 (a) and (b), as compliance to the **NTP\_2**. The document provided was not the pleaded credit contract.

<sup>261</sup> The Exhibit documents Tabs 1-4 of Mr Carpenters affidavit dated 24/3/2015 refer to: (a) Electronic Application form - Tab 1 (b) Application summary - Tab 2 (c) General card collection form - Tab 3 (d) General bank brochure called "Terms and Conditions" - Tab 4 (with no particulars of the person/account details/products/interest etc). Note: two versions were provided of 2006 and 2003 of the general brochure "Terms and Conditions".

153. The notice of motion filed 17/11/2015 by Piper Alderman is an example, that Piper Alderman/Mr Ammer had never intended to provide pleaded credit card contract nor comply with **RFBP**, notices to produce (x3) and Orders (x3), to produce their pleaded credit card contract.

(a) In the Affidavit of Mr Ammer sworn 17/11/2015, Mr Ammer deliberately made misleading statements, stating, that the only outstanding issues were paragraphs 2 and 3 of the Notice to Produce dated 10/2/2015, ("**NTP\_1**").

(b) Before court on 17/12/2015, Piper Alderman/Credit Corp Counsel, Mr Hartford Davis, wilfully misled the court and made false representation, effectively that all of the paragraphs on the **NTP\_1** were complied except for paragraph 2 and 3. I promptly gave notice to Piper Alderman in writing of Counsel's misrepresentation to the court. Piper Alderman failed to provide a response.

See '*Notices RE: Credit and Insurance Contract*' on page 42 in this report.

#### **(d) Court Events (Interlocutory and Final Hearing)**

154. See '*Interlocutory Hearing*' on page 13 and '*Final Hearing*' on page 18 in this report.

#### **(e) Affidavits Sworn by Piper Alderman.**

155. Credit Corp filed nine affidavits in the proceedings. Piper Alderman lawyers swore six of the nine affidavits. Mr Ammer, Partner, (swore four affidavits) and Mr Mennilli (swore two affidavits).

156. Mr Ammer and Mr Mennilli essentially made witnesses to these proceedings, collectively filing 6 sworn affidavits.

157. The following shows gross dishonest and misleading statements under sworn affidavit of Mr Mennilli and Mr Ammer.

#### **(i) Affidavits of Matthew Adrian Mennilli**

158. Affidavit Sworn 21 April 2015 witnessed by Florian Samuel Ammer<sup>262</sup>.

(a) Mr Mennilli by omission, wilfully failed to inform the court, in providing a background of the court orders, of the Orders dated 7/1/2015, made on the first court return date. Piper Alderman/Credit Corp had failed to comply with the Order dated 7/1/2015, for compliance with the **RFBP** within 7 days, in particular Paragraph 1 - seeking production of the pleaded credit card contract<sup>263</sup>. At the time of swearing the affidavit Mr Mennilli had full knowledge Piper Alderman had not complied with the said orders. Mr Mennilli appeared on 7/1/2015 and consented to the said orders.

(b) Mr Mennilli misrepresented in his sworn affidavit, stating that the **CIO** requested the Plaintiff to have the proceedings to be placed 'on hold'. The correspondence dated 1/4/2015, annexed and marked "**D**" in his said affidavit stated '*CIO permits Credit Crop to re-list the case for the purpose of adjournment*'. It is Credit Corp, which sought the adjournment of the proceedings. Mr Ammer's email dated 1/4/2015 on page 22 of the said

<sup>262</sup> Affidavit of Mr Matthew Mennilli sworn 21 April 2015 is available upon request.

<sup>263</sup> Refer to the **RFBP** in **Annexure "C"**.



affidavit, also misleads by stating that the 'CIO has indicated to our client that the matter is to be "placed on hold"..' This was contrary to the representations made to me by the CIO. My email is provided on the same page, 22 and a letter dated 19/3/15 on page 19 in the said affidavit;

159. Affidavit Sworn 27 October 2015 witnessed by Florian Samuel Ammer<sup>264</sup>.

- (a) Mr Mennilli by wilful omission failed to inform the court and me that he had knowledge at the time that CIO gave notice to his client that the complaint was closed. In court on 25/8/2015 Mr Mennilli was asked about the status of the CIO, which he replied 'No'<sup>265</sup>. In Piper Alderman's invoice, Mr Mennilli recorded attendance, (Emphasis in bold added): '**21/8/2015... Emails with Stephen Healey in relation to dismissal of CIO complaint ...**';
- (b) Mr Mennilli grossly misled the court that there was a determination by the CIO<sup>266</sup>. The CIO complaint was held for 6-8 months in the preliminary review stage.<sup>267</sup> It did not progress to 'investigation stage'. CIO Margaret Hur<sup>268</sup> did not provide a determination. Ms Hur did not investigate and had identified issues, which were not an issue put to the CIO. Mr Mennilli cost attendances in Piper Alderman invoices<sup>269</sup> disclose that he was consistently updated of the CIO process;
- (c) Mr Mennilli provides CIO rules in his affidavit stating, '*specifically 32, provide that all information obtained through the CIO's processing of a complaint must not be disclosed unless that "disclosure is required by law or required or permitted by these Rules or CIO's constitution"*'<sup>270</sup>. Mr Mennilli and Mr Ammer wilfully and deliberately breach such rules in preparation for final hearing and cross-examination. Piper Alderman's cost attendances, in breach of CIO rules and inherent confidentiality of dispute resolution, recorded the following:
- (i) On 13/7/2016: '**Reviewing and considering all phone recordings and all CIO/FOS correspondence for cross examination material**';
  - (ii) On 16/7/2016: '**...review CIO correspondence.**'

## **(ii) Court Representations and Appearances of Mr Mennilli**

160. Mr Mennilli on all occasion before the court, (for the period 7/1/2015 - October 2015 and April - June 2016), deliberately misled the court:
- (a) Relied on false pleadings of a credit card contract to pursue a claim, which he was aware did not exist<sup>271</sup>. (No such pleaded contract exists);
- (b) He sought for the court to grant consent orders dated 7/1/2015 and agreed to comply for the production of the **RFBP** (paragraph 1 sought for copy of their pleaded credit card contract). This was never complied to date;

<sup>264</sup> Affidavit of Mr Matthew Mennilli sworn 27 October 2015 is available upon request.

<sup>265</sup> Chronology annexed in my affidavit sworn 16/12/2015 is available upon request.

<sup>266</sup> Paras 1-5 of the said affidavit.

<sup>267</sup> Letter from CIO is Available upon request.

<sup>268</sup> Who did not disclose she was a solicitor, not in her conversation or in correspondence. I only discovered Ms Hur was a solicitor because I asked her. After writing letters to CIO, on 10, 17, 28 and 30 September 2015 giving notice of issues about the conduct of the CIO where the issues were not even addressed and after holding the complaint since 27/2/2015, I finally received a response from CIO on 22 October 2015. Ms Hur who made representations that she would look into the matter and review the CIO case manager's 'findings in his review of 25 August 2015' and sought to have further 30 days to do so. In those 30 days nothing was sought from me, no direction despite the issues raised in correspondences. On reliance of Ms Hur's representations, the court on 29 September 2015 was adjourned for a further 30 days.

<sup>269</sup> See **Annexure "B.1"**.

<sup>270</sup> Para 6 of the said affidavit and the said CIO rules are annexed and marked "B".

<sup>271</sup> Evidence in Piper Alderman's cost attendances where there is no attendance to any credit contract and/or insurance contract; See **Annexure "B.1"**.

- (c) By wilful omission, failed to inform the court their consistent failure of providing their pleaded credit card contract. Piper Alderman/Credit Corp's failure to comply with the Order dated 7/1/2015, and notice to produce 10/2/2015 (**NTP\_1**), despite notices put to them. Another order was made by the court to comply with the said **NTP\_1** on 27/10/2015, to be complied within 21 days, which Mr Mennilli consented. This was never complied. (There was a notice of motion but it grossly misled the court stating only 2 and 3 was an issue, see below in Mr Ammer's affidavit);
- (d) On 25 September 2015, before court about Mr Mennilli misled the court, by wilful omission, failing to inform the court that the he had knowledge of his client receiving notice from CIO of its 'dismissal of the complaint'. Mr Mennilli sought adjournment from the court when he was aware there was an issue and uncertainty of the status of the CIO process. When Mr Mennilli was asked about his knowledge of the CIO status, which he represented he was not aware. Contrary to Mr Mennilli's recorded attendance in Piper Alderman's invoice which record on **21/8/2015... Emails with Stephen Healey in relation to dismissal of CIO complaint ...**'.

**(iii) Affidavits of Florian Samuel Ammer.**

161. Affidavit Sworn 17 November 2015 witnessed by Matthew Adrian Mennilli <sup>272</sup>.

- (a) Mr Ammer wilfully misleads in his sworn affidavit under the heading 'the proceedings' by omission of the pleaded credit card contract in the claim. Mr Ammer deliberately omits 'contract' and represents that the claim relates to a 'credit card debt'<sup>273</sup>;
- (b) Mr Ammer by wilful omission, failed to disclose that they had not complied with the request for further and better particulars dated 5/11/2014, (**RFBP**), and failed to disclose to the court that production of the pleaded credit contract was made an order 7/1/2015 which they failed to comply to date;
- (c) Mr Ammer in attaching my request for particulars and notice to produce in his affidavit, wilfully makes misrepresentation that such request and notices were complied and the only outstanding issues were paragraphs 2 and 3 in the notice, when he is aware the credit card contract among other documents have not been provided/produced. In Para 22, Mr Ammer states, (emphasis added in bold):

***"As at the time of swearing this affidavit, paragraphs 2 and 3 of the Notice to Produce remain in dispute between the parties."***

162. Affidavit Sworn 17 March 2016 witnessed by Matthew Adrian Mennilli <sup>274</sup>.

- (a) Mr Ammer wilfully misleads in his sworn affidavit under the heading 'the claim' by omission of the pleaded credit card contract in the claim. Mr Ammer deliberately omits 'contract' and represents that the claim relates to a 'credit card'<sup>275</sup>;
- (b) Mr Ammer by omission, under the history of proceedings failed to disclose:
  - (i) that they had not complied with the **RFBP** and failed to disclose that such production of documents under the **RFBP** was made as an Order on 7/1/2015, which they failed to comply with to date;
  - (ii) that they failed to comply with the Notice to Produce dated 10/2/2015 (**NTP\_1**) and Notice to produce 17/12/2016 (**NTP\_2**) the request for the pleaded credit card contract, credit insurance contract and power of attorney/authority remain outstanding to date.
- (c) Mr Ammer wilfully misleads in his sworn affidavit under the heading 'unsolicited credit card' at paragraph 14, stating that, ***'the allegation... for the first time raises an issue as to whether she in fact signed the document'*** referring to the card collection form. This is

<sup>272</sup> Affidavit of Mr Florian Samuel Ammer sworn 17/11/2015 is available upon request.

<sup>273</sup> Para 3 in the said affidavit.

<sup>274</sup> Mr Florian Samuel Ammer sworn 17/3/2016 is available upon request.

<sup>275</sup> Para 3 in the said affidavit.

contrary to my prompt notices and correspondences to Piper Alderman, which Mr Ammer annexed in his own affidavit sworn 17/11/2015. The annexed correspondence dated 5/2/2015 (on page 28 of Mr Ammer's sworn affidavit), gives clear notice to Piper Alderman/Mr Ammer in relation to the signature on the collection form, stating, **'..I dispute that the signature on the copy of the card collection form is my signature...'**<sup>276</sup>.

From the time such notice was given to Piper Alderman in February 2015, they did not attend to any matter concerning the signature of the card collection form for 13 months until Mr Ford became involved in the matter. This is evidenced in the Piper Alderman's attendances in their invoices in Annexure "B.1" and graph in **Annexure "E"**.

163. Mr Ammer's sworn Affidavit dated 15 August 2016<sup>277</sup>

The said affidavit had Exhibits of Piper Alderman's **itemised Bill of costs**, which were not provided by Piper Alderman in their **CAA** on 9/1/2018, where the said Bill of costs contradicts recorded cost attendances provided in the **CAA**. (Refer to Supreme Court -Assessment Application on page 75 in this report)

Further information and table are available of the gross misrepresentations and dishonesty of Mr Ammer and Mr Mennilli under their sworn affidavit.

See Table of Misrepresentations by Mr Ammer in his sworn Affidavit dated 15 August 2016 provided in **Annexure "B.2"**.

**(f) The NSW Law Society Professional Standard Board (Complaint No.42049).**

164. Piper Alderman lodged a complaint against me to the **OLSC**, which was forwarded to the Professional Standard Board, ("**NSW\_PSB**"). This was done a few months prior to the listed one-day final hearing, 7 April 2016. The said complaint was closed, being 'not made out', in May 2017.
165. Piper Alderman lodged the said complaint, I believe, on the basis that I gave notice to Credit Corp of Piper Alderman solicitors, in particular, Mr Matthew Mennilli, misleading the court. I was pressing them for the provision of the credit card contract, which they have refused and continually failed to provide.
166. Piper Alderman represented that the correspondences to **OLSC** and the **PSB** were written and signed by Mr Malcolm Mervyn Quirey, General Counsel of Piper Alderman on behalf of Mr Ammer. However, there are no records of attendances by Mr Quirey in Piper Alderman's invoices in the Exhibit in the Affidavit of Mr Ammer sworn 15/8/2016.
167. Piper Alderman used Mr Quirey's title to deliberately mislead the **OLSC**, **PSB** and me that the letters were written by Mr Quirey as signed by Mr Quirey on behalf of Mr Ammer. Piper Alderman cost attendances demonstrates that the person who drafted and wrote the complaint and the letters to the **OLSC** and to **NSW\_PSB** was Piper Alderman solicitor Mr Matthew Mennilli. Invoices<sup>278</sup> record that he charged his client, Credit Corp, for writing the letters to the **OLSC** and to **NSW\_PSB**. In the Cost Assessment Application filed on 9/1/2018 those cost attendances, along with others were deleted, altered, created or modified.
168. Mr Mennilli had a self-serving interest to file this complaint as a platform to use against me, a personal vendetta to threaten, embarrass and undermine my profession, as a legal practitioner.

<sup>276</sup> Letter available upon request. Also refer to 'Notices RE: Credit and Insurance Contract' on p.42 in this report.

<sup>277</sup> Affidavit of Mr Florian Samuel Ammer sworn 17/11/2015 is available upon request.

<sup>278</sup> Example invoice number 365951 dated 18/12/2015 in **Annexure "B.1"**.

Further, the attendances shown in Piper Alderman's invoices indicate the malicious intent of Piper Alderman/Mr Mennilli to attack me and use my legal profession against me at the final hearing<sup>279</sup>.

169. On 5 November 2015 I gave notice to Credit Corp of Mr Mennilli's conduct misleading the court on 29/9/15 and 27/10/15, about what had transpired in the **CIO** process<sup>280</sup>.
170. In Piper Alderman's letter dated 3/8/16 to the **NSW\_PSB**, Mr Mennilli made false representations that the court had addressed his conduct<sup>281</sup>.
171. Court Transcripts of 29/9/15 and 27/10/15 show that Mr Mennilli misled the court and undermined the role of a **CIO** solicitor, Ms Hur, effectively representing to the court not to rely the **CIO** representation in correspondences that there would be further investigation of the **CIO** complaint<sup>282</sup>.
172. The **NSW\_PSB** letter dated 19/5/2017, Para 3 on page 2, referred and relied on Mr Hartford Davis representation before court on 30/3/2016 in relation to the EDR **CIO** process:
- "... I have taken instructions over lunch and I do tell your Honour on instructions that neither my client, nor my instructing solicitors had anything to do with the ombudsman process at all."*<sup>283</sup>
173. The above statement was deliberately misleading **NSW\_PSB**, the court and me. It is also contrary to Piper Alderman's attendances in its invoices<sup>284</sup>. There are consistent costs charged and attendances in respect to the **CIO** process within the period: 27/3/2015 and 10/11/2015<sup>285</sup>
174. Piper Alderman and its counsel, Mr Hartford Davis, wilfully and deliberately misled the court that they did not have '**anything to do with the ombudsman process at all**'<sup>286</sup>.
175. On 21/8/2016 Mr Mennilli's attendance records '*...dismissal of the CIO complaint*'. The said attendance was not recorded in the relevant invoice issued on 26/8/2015. It was recorded under the invoice issued on 30/9/2015. The said attendances were deleted in the falsified costs attendances in the Assessment of Costs Application filed at the Supreme Court in 9/1/18<sup>287</sup>.
176. The **CIO** attendances are important, because there was an issue as to the status of the **CIO**, when the complaint was closed. In court on 25 August 2015, Mr Mennilli was asked if he was aware of the status of the **CIO** process to which he initially answered that the **CIO** process was 'closed', then he quickly changed to 'no'.<sup>288</sup> Mr Mennilli's cost attendances show that he wilfully misled the court as he had full knowledge that **CIO** already closed the complaint on 21/8/2015. Mr Mennilli's attendance in Piper Alderman's invoice records on **21/8/2015 ... Emails with Stephen Healey in relation to dismissal of CIO complaint ...**.

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<sup>279</sup> Piper Alderman's invoices record charges and attendances on the complaints to **OLSC/NSW\_PSB** by Mr Mennilli. Refer to **Annexure "B.1"**; For example, (a) Invoice No 365951 dated 18/12/2015, attendance by Mr Mennilli on 9/12/2015 stating: '*Considering commentary in relation to lodgement of complaint with NSW Legal Services Commissioner...*', (b) attendance by Mr Mennilli on 10/12/2015 stating: '*Further drafting letter to NSW Legal Services Commissioner in relation to Marie Odtojan's conduct in the proceedings and request for an investigation in relation to the same*'; (c) Invoice No 378055 dated 8/8/2016, attendance by Mr Mennilli on 12/7/2016 stating: '*Attending on Florian Ammer in relation to preparing brief of... Counsel regarding lodgement of complaint against Marie Odtojan*'; (d) attendance by Mr Mennilli on 13/7/2016 '*Considering correspondence... regarding Marie's improper conduct..., drafting observations to brief Sebastian Hartford-Davis of Counsel in relation to Marie's improper conduct, complaint made against Marie and possible ventilation of the same at final hearing*'.

<sup>280</sup> Provided in my affidavit sworn 16/12/2015. Available upon request.

<sup>281</sup> Court Transcript 29/9/15 and 27/10/15 are available upon request.

<sup>282</sup> This demonstrates that the **CIO** is not an impartial, independent and fair EDR process. It is directed and undermined by Credit Corp and its lawyers.

<sup>283</sup> Court Transcript 30/3/2016 is available upon request.

<sup>284</sup> As Exhibits of Mr Ammer's sworn affidavit dated 15/8/16. Refer to **Annexure "B"**.

<sup>285</sup> Refer to invoices dated from 25/2/2015 to 26/11/2015, **Annexure "B"**

<sup>286</sup> Court Transcript 30/3/2016 is available upon request.

<sup>287</sup> See '*Supreme Court - Assessment Application*' on p.90 in this report.

<sup>288</sup> Chronology in my affidavit sworn 16/12/2015 is available upon request; Also see **Annexes "A" to "A.2"**.

## **ii. Gross Costs/Overcharging and Unlawful Enrichment By Piper Alderman**

### **(a) Costs Incurred on False Pleadings and Unlawful Acts.**

177. Piper Alderman incurred **gross costs of approx. a quarter of million dollars** to conduct these proceedings<sup>289</sup>, on a consumer-credit law matter, pursuing a purported amount of approx. \$40,000 expressly pleaded to be pursuant to a credit card contract, where no such contract exist.
178. At the final hearing, the lawyers, Piper Alderman, its counsel, Mr Hartford Davis, Mr Ford and Mr Glynn, colluded to eliminate and remove:
- (a) the real issues in dispute (i.e. existence of credit card contract and denial of entering such contract including the existence of the credit insurance contract<sup>290</sup>);
  - (b) the applicable credit laws;
  - (c) the pleadings in the **ASOC** and **FAD**.
179. The case presented was not the case put to me to answer in the pleadings in the **ASOC**. At the final hearing, my case was not presented. My evidence was substantially deleted/eliminated by Mr Ford who consented to make deletions to my affidavit by consent with Credit Corp/Piper Alderman's Counsel, Mr Hartford-Davis without my knowledge/instructions/consent.
180. On giving evidence at the witness box, it was handled and tampered by Piper Alderman's paralegal Ms Miller. **This case was not my case, but a fabricated case of Piper Alderman, Mr Hartford-Davis, Mr Ford and Mr Glynn, where real issues, the pleadings and applicable laws were not applied.**
181. The said lawyers in this case have greatly abused their position as legal practitioners and officers of the court and engaged in the abuse of process capable to be subject to disciplinary proceedings, and may have costs awarded against them personally.<sup>291</sup>
182. In Piper Alderman's invoices<sup>292</sup> there are **no attendances referring/reviewing to any contract - credit contract or any credit insurance contact.** Further, there are substantial attendances recording to 'strategy', 'strategies'.
183. In Piper Alderman's submission dated 24/7/2018 during the Costs Assessment process, Mr Ammer deliberately does not mention the pleadings of the credit card contract and blatantly states that this matter is a '*straightforward debt claim*'.<sup>293</sup>

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<sup>289</sup>Affidavit of Mr Florian Ammer sworn 15/8/2016. My purported legal representatives Mr Ford and Mr Glynn withheld the said affidavit and its exhibits from me. I was deprived from having any knowledge of the contents, from reviewing and replying to the said affidavit, to raise any issues before the court at the cost argument hearing on 29/8/2016. I was only provided the affidavit after the cost argument hearing and after the 28 day period to appeal expired; Such gross costs were blamed on me by Mr Ammer in his sworn affidavit 15/8/2016 in **Annexure "B"**. In their submission dated 27/4/2018 during the Costs Assessment process and in their affidavits, Piper Alderman Lawyers/Mr Ammer consistently demonstrated to me that they take no responsibilities of unlawful gross costs and wilfully chose to incur costs on proceedings based on **false pleadings** which they never planned to ventilate nor produce pursuant to notices to produce and court orders.

<sup>290</sup> Highlighted and identified by Magistrate Pierce during the interlocutory hearing on 30/3/2016; See '*Interlocutory Hearing*' on p.13 in this report.

<sup>291</sup> See Dal Pont, Law of Costs (2nd ed, LexisNexis Butterworths, 2009), [23.21]-[23.35].

<sup>292</sup> As exhibit Tab 1 in the Affidavit of Mr Ammer sworn 15/8/2016, refer to **Annexure "B"**.

<sup>293</sup> There is little strategy required if a credit card contract exists. If the defence is not made out, then they can utilise a standard business practice of striking out the defence. Which was not done by Piper Alderman, who waited 14 months into the proceedings for a Further Amended defence to be presented by my purported legal representative Mr Ford. An assertion by Mr Ammer the costs were incurred due to the signature issue on unoriginal "card collection form" is grossly dishonest statement. The said card collection form, which was only made an issue when Mr Ford got involved in the matter. There are no recorded attendances in Piper Alderman's invoices on the issue of the signature until Mr Ford's involvement and notwithstanding that notice was given to Piper Alderman as early as February 2015 that I have never seen/signed the card collection form before. Such document is not a contractual document.

## (b) Piper Alderman's Offer of Compromise

184. On 17 December 2014 an Offer of Compromise was made to trigger costs when Piper Alderman/Partner: Mr Ammer and Ms Freeman had full knowledge, as per my **RFBP** dated 5 November 2014, that they had not provided their pleaded credit card contract, and I was greatly prejudiced without such material documents to adequately reply to the their claim and had been forced to file a defence without such material documents. Piper Alderman's invoices<sup>294</sup> reveal their reckless indifference to the **RFBP** and Notices to produce, requesting the production of the pleaded credit card contract. This is a consistent behaviour with Piper Alderman as they have done the exact conduct in the Costs Assessment Process - filing the Assessment of Costs Application with fabricated and manipulated costs attendances and chronology, without providing bill of costs/invoices. (Refer to heading under '*Supreme Court - Assessment Application*' on page 90 in this report).

## (c) Wilful Dishonesty to Mislead Magistrate Pierce on Costs.

185. **The court was grossly misled by Mr Ammer's affidavit sworn on 17 March 2016** representing that costs incurred at the time were approx. \$52,000. On review of invoices, the amount was \$55,000<sup>295</sup>. On 30/3/2016, Mr Hartford Davis represented to the court that he had confirmed the costs of \$50,000 with Mr Ammer during the lunch break. In reference to Piper Alderman's invoices at the time they had already incurred approx. \$75,000 in costs. The gross dishonest representations to his Honour, where costs were seen as a determining issue, and where his Honour commented on the costs of \$50,000 represented to him by Mr Hartford Davis that they were 'very high'. The dishonesty of Piper Alderman/Mr Hartford Davis would materially affect his Honour's decision to vacate the 7 April 2016 hearing and allowing a two-day hearing.

186. Notwithstanding the strong notice and warning by His Honour Pierce in relation to 'very high' costs already incurred by the Credit Corp/Piper Alderman and the representations of Mr Hartford Davis at court that '*... even if the plaintiff were to be successful in these proceedings there is a risk of irrecoverable costs ...*',<sup>296</sup> after the interlocutory hearing, Piper Alderman wilfully incurred unjustifiable gross costs for the period from 1/4/2016 to 8/8/2016 of approximately **\$143,000.00, an average of \$33,600 per month, on a consumer type \$40,000 claim.**<sup>297</sup>

187. In court on 30/3/2016, Magistrate Pierce took issue with the costs incurred by the Plaintiff and gave a lengthy address on the matter of costs<sup>298</sup>, (*Emphasis in bold added*):

HARTFORD-DAVIS: *Now, your Honour has seen - I think I have shown your Honour - I return, now, to the affidavit of Mr Ammer.... Now, Para 6 gives your Honour evidence that there is **50,000 costs been incurred so far over the 17 months of these proceedings.** Your Honour then connects that with Para 8, which was the subject of an objection, it doesn't rise higher than my instructing solicitor saying on his instructions--*

HIS HONOUR: *Just before you pass off the 50,000, whilst I am aware that it was described as the ombudsman activities contributing, you have told me just a few minutes ago that you didn't investigate the ombudsman activities.*

HARTFORD-DAVIS: *No, I don't - no.*

HIS HONOUR: *How do you get 50,000 for this sort of thing?*

HARTFORD-DAVIS: *Your Honour asks a good question and I admit to you that I haven't investigated that. But as I stand here from the bar table, there is various requests for documents and particulars,*

<sup>294</sup> As exhibit Tab 1 in the Affidavit of Mr Ammer sworn 15/8/2016, refer to **Annexure "B"**.

<sup>295</sup> In the exhibits of Mr Ammer's affidavit sworn 15/8/2016.

<sup>296</sup> Court Transcript 30/3/2016, p. 71.

<sup>297</sup> Refer to Table of Costs in the Affidavit of Plaintiff's Solicitor, Florian Samuel Ammer, Partner, dated 15/8/2016 and Graph of cost by way of assistance, in Annexure **"E"**, costs spiked in correlation to Mr Ford's involvement.

<sup>298</sup> From Para 40 p.62 to Para 50 p.63 on Court Transcript 30/3/2016.

various notices to produce, different Court appearances that had to happen after the ombudsman investigation was determined.

HIS HONOUR: *But those are just mention type things, aren't they?*

HARTFORD-DAVIS: *Quite. That of course--*

HIS HONOUR: *It sounds, to be perfectly frank with you, **it sounds pretty unlikely that you can justify anywhere near 50,000.***

HARTFORD-DAVIS: *On a recovery basis.*

HIS HONOUR: *Yeah, **on any sort of basis.***

HIS HONOUR: *It isn't on any final basis but in terms of we doing the best we can in this interlocutory proceeding to make some sort of a rough estimate as to what's likely to happen, **I would have thought since your fellows have standard documents, obviously your clients are very familiar with these documents and you need a couple of conferences and so forth and there's been a couple of mentions or glorified mentions, it just strikes me as unlikely that it would be 50,000 or 35 so far and 15 shortly.***

HARTFORD-DAVIS: *I mean, your Honour, that's the evidence, that's what he says.*

HIS HONOUR: *Yes but it doesn't mean that one necessarily has to accept it.*

HARTFORD-DAVIS: *But your Honour wouldn't reject this evidence without cross-examination. This is a partner of a--*

HIS HONOUR: *No, no, no. Look, the partner - that person, Florian Ammer, is a partner, yes?*

HARTFORD-DAVIS: *Yes.*

HIS HONOUR: *The **partner can say such a thing but I do not have to accept, even uncontradicted inherently not implausible evidence, the suggestion that one did have to do that was made in 1964 and has been abandoned or not followed in numbers of decisions in the Court of Appeal since. I'm not obliged to simply look at a piece of evidence, such as there have been 35, plus 15 to come, expenses and uncritically said, "Well, he said it, I must accept it" not even on an interlocutory basis.***

HARTFORD-DAVIS: *Your Honour might find that the costs are too high or something of that nature--*

HIS HONOUR: ***Not a bit high, they're very high.***

HARTFORD-DAVIS: *Well, your Honour, **17 months of proceedings with different rounds of amendments of the pleading--***<sup>299</sup>

HIS HONOUR: *It depends what happens in that 17 months. Not much happened in--*

HARTFORD-DAVIS: *No, it's the 6 months not much was happening but there was still 11 months in this case where it was alive.*

HIS HONOUR: *Not a great deal. You see, **we haven't got the sort of things that sometimes happen, like interlocutories, discoveries, forced requests for particulars, coming to Court to get them. It looks like a matter, whilst it's not a simple matter, it's got some complexity to it but it doesn't look like a matter to me that and I repeat, at this stage in this sort of interlocutory application, doing our best to make a practical assessment, it doesn't look like a matter which could involve that amount of money.** The mere fact that Mr Ammer - is that a male or a female?*

HARTFORD-DAVIS: *Male.*

HIS HONOUR: ***Mr Ammer is asserting it, it doesn't make it so. That 1964 decision is Holman v Holman and it has not been followed in Temiha, without addressing the particular case, v Sadebarth in the Court of Appeal and in Anust(?) v Edwards in the Court of Appeal and in a whole string of other cases which I can't recall off the top of my head but I recall those but which I can give you because I have everything in the Court I affectionately refer to as ..(not transcribable)... So if you want them, I can turn them up.***

HARTFORD-DAVIS: *Your Honour, I don't need them now, thank you. Thank you, your Honour. I take what your Honour is saying.*

HIS HONOUR: *.... I would be inclined to accept that.*

#### **(d) Excessive Issue of Subpoenas and Notices to Produce. (A Fishing Expedition).**

188. Piper Alderman issued excessive subpoenas to obtain multiple signatures for the period: 2006 to 2016 (Approx. 11 subpoenas) and Notice to produce (approximately 4) and a Notice to Admit. Piper Alderman/Mr Ammer had recorded attendance issuing subpoena the ATO<sup>300</sup>.

<sup>299</sup> Mr Hartford Davis is misleading, the amended pleadings occurred in January 2015.

189. Piper Alderman<sup>301</sup> **only commenced issuing subpoenas, notice to produce and notice to admit until approximately 15 months into the proceedings, upon the involvement of Mr Ford in February 2016.**
190. Notice was given to Piper Alderman/Mr Ammer of the signature issue on the card collection form from 4 February 2015. The said document was never represented to me as a 'core' document **until Mr Ford was involved in the matter.**
191. Piper Alderman's invoices show no recorded attendances on any credit card contract (pleaded as a cause of action and a material fact in the claim). It is evident from Piper Alderman's invoice that Piper Alderman assisted its client to tailored their based on a card collection form and its signature as the 'core' disputing issue between the parties and this was done upon the involvement of Mr Ford. There are no attendances on the said collection form and the signature issue prior to Mr Ford's involvement.
192. The excessive issuing of subpoenas and notices to produce on matters that go beyond the relevant pleaded period on or about February 2006, where signatures were obtained for a period of 10 years, from 2006 to 2016, is **a fishing expedition and an abuse of process.**
193. The Affidavit of Mr Ammer sworn 20/6/2016<sup>302</sup> provides 20 sample signatures obtained for the handwriting expert. From the list of samples, 3 out of 21 signatures were from the relevant period in 2006. Mr Ammer also provided my complete affidavit sworn 26/2/2016 as part of the report to the expert for sample signatures, which is clearly not within the relevant period of 2006. To provide my full affidavit to the expert where such signature on the affidavit is not in the relevant period to the signature in question on the collection and the affidavit is evidence yet to be ventilated at the final hearing, demonstrates Mr Ammer/Piper Alderman's improprieties.

#### **(e) The Handwriting Expert**

194. At the interlocutory hearing 30/3/2016, Magistrate Pierce was grossly misled by Credit Corp's Counsel, Mr Hartford Davis that the signature on the card collection form was a contract document, being a 'core' document, in the proceedings.

HIS HONOUR: '***So that was the contract with St George***<sup>303</sup>

HARTFORD-DAVIS: '***At that point, your honour, can I ask you to take up the affidavit of Mr Ammer, which I have read and turn to the credit card collection form which is at pp 16 and 17***'

HIS HONOUR: 'Yes?'

HARTFORD-DAVIS: '***So your Honour has seen this form and its signed at the back ...***'

195. In Mr Ammer's sworn affidavit dated 17/3/2016, where the said affidavit was relied by Counsel Mr Hartford Davis before his Honour Pierce on 30/3/2016, Mr Ammer provided estimated fees of the handwriting expert he had consulted. Mr Ammer stated that '**signature expert report is estimated to be \$4,000 to \$5,700**'.
196. Magistrate Pierce took great issue of the very high costs already incurred by the Plaintiff/Credit Corp and questioned the costs and the need for a Handwriting Expert on an unoriginal photocopied document.

<sup>300</sup> Refer to invoices in Tab 1 - Exhibits of sworn Affidavit of Mr Ammer's affidavit dated 15/8/2016; See **Annexure "B.1"**.

<sup>301</sup> Piper Alderman was engaged in the matter on 12/12/2014.

<sup>302</sup> Affidavit of Florian Samuel Ammer sworn 20/6/2016 is available upon request.

<sup>303</sup> Page 26 Court Transcript 30/3/2016.



197. In consideration of costs, Magistrate Pierce states the following in relation to handwriting expert:

HIS HONOUR: *Well, look, can I just suggest this to you. You don't have to have handwriting experts, right. Have you got the original, by the way?*

HARTFORD-DAVIS: *I don't think so, your Honour, I'd have to check that.*

HIS HONOUR: *Can I just suggest this to you. **Technically you don't have to have handwriting experts because the Court can compare, if there are other signatures and if not, she or you would have to be given leave to file some document which showed an original signature to compare it with so the Court can compare.** But whilst I don't want to give evidence from the bench, I've done a lot of cases like this and I can tell you if you haven't got an original most handwriting experts are going to have a very hard time determining whether it was or was not--*

HARTFORD-DAVIS: *Yes, your Honour.*

HIS HONOUR: *-- you know, her signature.*

HARTFORD-DAVIS: *But one thing that we've - as soon as we received this further amended defence we issued some subpoenas to recover - to try to find original samples, some of those subpoenas have been returned and I can tell your Honour an expert has been consulted.*

198. Notwithstanding the issues highlighted by Magistrate Pierce concerning cost and his Honours reliance on the representations of the estimated fees of the expert report in Mr Ammer's sworn affidavit 17/3/2016, Credit Corp/Piper Alderman **grossly incurred approximately \$60,000 on an expert report for a one page photocopied Bank's general card collection form (not a contract nor a prescribed contract document pursuant to applicable Credit Code and legislation).**

199. Shortly after the interlocutory hearing on 30/3/2016, Mr Ford obtained from me, on behalf of Piper Alderman, the original credit card with a signature<sup>304</sup>. I never saw the credit card again. The original signature on the said credit card did not match a signature on the "card collection form" and did not align with Piper Alderman's story. **The original credit card was suppressed as evidence from the court at the final hearing and by collusion of the lawyers withheld the said original credit card at the final hearing.**

#### **(i) Excessive Communications with Handwriting Expert.**

200. Piper Alderman's invoices<sup>305</sup> show the excessive and inappropriate communication with the Handwriting Expert, Ms Andrea Devlin, which involve long duration of telephone conversations. Mr Ammer spent 3.5 hours on the phone with Ms Devlin between 27 and 31 of May 2016. The Invoices demonstrate that Mr Ammer had spoken to another handwriting expert on the matter, Ms Michelle Novotny from the same office of Ms Devlin.

The following is a few examples of the communications with the Handwriting Expert:

- (a) For the period 2/5/2016 and 27/5/2016: there were approximately **12 recorded attendances** between Mr Ammer and handwriting expert Ms Devlin;
- (b) For the period 30/5/2016 and 20/6/2016: there were approximately **21 recorded attendances** between Mr Ammer and Ms Devlin;
- (c) Mr Ammer and Ms Devlin spoke over the phone in the month of May 2016 for:
  - (i) **1.5 hours** on 27/5/2016;
  - (ii) **1 hr** on 30/5/2016,
  - (ii) **1 hr** on 31/5/2016 via phone conference with counsel, Mr Hartford Davis.<sup>306</sup>

<sup>304</sup> The signature on the original credit card does not correspond with the signature of the Plaintiff's unoriginal/photocopied card collection form.

<sup>305</sup> See Invoices in Annexure "B.1".

<sup>306</sup> Ibid, see invoice No 373709, dated 30 May 2016 and 375247, dated 23 June 2016.

(d) In the affidavit of Mr Ammer sworn 20/6/2016, Mr Ammer provided my full affidavit before the final hearing listed on 18 and 19 July 2016. Ms Devlin read my evidence before it was put to the court at the final hearing<sup>307</sup>.

**The result of the handwriting expert report was inconclusive.**

**iii. Conspiracy to Pervert Justice, Collusion and Fraud.**

201. Reference is to be made in this report '*...Legal Representation*' on page 10 and 36; '*Interlocutory Hearing*' on page 13; '*Final Hearing*' on page 17; '*Judgment*' on page 24, '*Presiding Magistrate Sharon Freund..*' on page 26 and '*Current Events/Conduct*' on page 29.
202. Credit Corp and its lawyers, Piper Alderman and Certus Partners, **had wilful and premeditated intention to grossly mislead the court and me** by commencing court proceedings, filing a false claim, pleading a credit card contract as a cause of action and material fact which does not exist. (In breach of strict credit laws, s80(1) of the *Credit Code* /s88(1) of the *National Credit Code*).
203. Filing a claim with false pleadings, demonstrate the deliberate and malicious premeditated conduct to pervert the administration and course of justice by Credit Corp and its lawyers. Throughout the course of the proceedings, Piper Alderman and its client systematically ignored, deflected and frustrated the process of obtaining a copy of the pleaded credit card contract, which had never been produced/provided by Piper Alderman/Credit Corp to date, despite their representations to court, (by Solicitor Matthew Mennilli in the Orders dated 7/1/2015 - to comply with **RFBP** and in court on 27/10/2015 to comply within 21 days with Notice to Produce dated 10/2/2015), Notices to Produce (x3) and Court Orders (x3) and contrary to the judgment dated 16/8/2016 and cost order dated 2/9/2016, where no credit card contract and insurance contract was identified, specified nor admitted in evidence nor produced throughout the final hearing and throughout the court proceedings.
204. Piper Alderman invoices (period 12/12/2014 - 8/8/2016) in **Annexure "B.1"** provides:
- (a) the conduct of Piper Alderman's lawyers, the conducted of the matter where recorded attendances confirms no attendances to any credit card contract nor credit insurance contract which supports - no credit card contract exists as pleaded in the claim (**SOC/ASOC**).
  - (b) for the listed final one-day hearing on 7 April 2016, there was little to no preparation for the said final hearing. No subpoenas were issued, no notice to produce issued, no notice to admit facts issued. Issues were put to Piper Alderman and its client as early as December 2014 and the dispute of the signature on the general photocopied card collection form was given to Piper Alderman, shortly after I received a copy, on 4 February 2015.
205. Piper Alderman and its counsel, Mr Hartford-Davis with Mr Ford, (upon the involvement of Mr Ford in the matter):
- (a) Presented the general bank's photocopied/unoriginal Card Collection Form:
    - (i) as the 'core' document in the proceedings;
    - (ii) to have interchangeable function, as a 'card collection form' being part of a contract, a 'declaration', 'declaration form' and 'a written request'<sup>308</sup>;
    - (iii) that the signature dispute was the only material issue in dispute;

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<sup>307</sup> Mr Ford misled me that he would oppose/object to such affidavit and to providing my affidavit to the expert when the final hearing had not taken place. Mr Ford would never objected, which is consistent with all his other false representations to me.

<sup>308</sup> Purporting to be pursuant to 12DL of the ASIC Act.

- (b) Eliminated the real issue in dispute between the parties:
- (i) The pleaded issues of the credit card contract and its existence and that of the credit insurance contract were completely eliminated;
  - (ii) Piper Alderman's invoices provide no attendances to any credit contract and any issue to the contract despite repeated notices from the outset;
  - (iii) Mr Ford on every occasion before the court and in his written submission, Outlines and other documents to the court, gave false evidence, specifically stating that '**contract documents were never provided... until 12 January 2015**'. This false evidence was given by Mr Ford at the bar table on every occasion before the Court, supported by court transcripts. No such evidence that credit contract was provided on 12/1/2015 was given by me nor any other witnesses in the proceedings;
- (b) Piper Alderman's costs grossly spiked and sudden excessive attendances arose in relation to the 'card collection form'. Piper Alderman's invoices showed little to no preparation for prior listed one day 7 April 2016 hearing. However upon the involvement of Mr Ford, Piper Alderman's costs and attendances spiked. (Approximately: 11 subpoenas issues, 4 notices to produce and one admit facts were issued after Ford's involvement on the matter and after 14-15 months into the proceedings by Piper Alderman.)<sup>309</sup>;
- (c) They had fabricated a new theory base on a "card collection form" and its signature as the core and only dispute between the parties;
- (d) Vacated the 7 April 2016 hearing, added an extra hearing day and protracted the proceedings. Grossly misled Magistrate Pierce on 30/3/2016 that the issues identified and pleadings in the Further Amended Defence ("**FAD**") and **ASOC** would be ventilated at the final hearing;
- (e) Mr Hartford Davis, Mr Ford with Ms Miller chose the court date<sup>310</sup> to be listed on 18 and 19 July 2016, protracting the matter for further 4 months. Mr Ford never asked my consent about choosing a court date.

See Collusion Table in **Annexure "J"**.

#### **iv. Breach/Disregard of Inherent Confidentiality of the Dispute Resolution Process.**

206. Piper Alderman and its client breached inherent confidentiality of the Dispute Resolution ("DR") /External Dispute Resolution process ("EDR") via the Credit and Investment Ombudsman ("**CIO**")<sup>311</sup> and breached **CIO** rules and guidelines:

207. The **CIO** rules<sup>312</sup> state:

- *Rule 32.1: All statements the complainant or financial service provider make and information or documents they provide to the scheme are on a 'without prejudice' basis. This means that anything said or done or information provided to the scheme during the CIO process cannot be used in subsequent legal proceedings unless required by an appropriate court process.*
- *Rule 32.2: Any information obtained by the scheme during the CIO process must not be disclosed.. to anyone else unless disclosure is required by law or required or permitted by these Rules or CIOL's Constitution;*

<sup>309</sup> See '*Gross Costs/Overcharging...*' on page 69 in this report; See also Graph of Costs **Annexure "E"** and **Annexure "B.1"** Piper Alderman invoices.

<sup>310</sup> Mr Ford never sought instructions from me and he had completed/signed court documents on 30/3/2016 representing that I was the solicitor and providing another person's contact number - this was done without my knowledge. I only discovered that document upon inspection of the court file in 2017.

<sup>311</sup> Membership to an EDR Scheme is a mandatory requirement for financial service providers. Credit Corp is a member of the **CIO** scheme. *Credit Law Toolkit* (Legal Aid New South Wales and Financial Rights Legal Centre, 2015/2016) provides the standard process which is to be conducted in using an EDR - **CIO** scheme.

<sup>312</sup> Credit and Investment Ombudsman Rules Ninth Edition. Enforced on and from 5 May 2014 is available online and upon request.

208. The affidavit of Piper Alderman solicitor, Matthew Mennilli, sworn 27/10/2015<sup>313</sup>, provides the confidentiality of the **CIO** process. However, Piper Alderman showed blatant disregard of such **CIO** rules and guidelines when such rules/guidelines do not serve their interest/purpose and that of their clients.
209. On 30 March 2016, His Honour Pierce was grossly misled by the representations made by Piper Alderman and its counsel, Mr Hartford Davis, in respect to the **CIO** outcome and process:
- (a) His Honour: "... but you would have enquired as to what happened no doubt."<sup>314</sup>  
Mr Hartford Davis: "We received a determination at, I think, the end of August which dismissed the complaints..."<sup>315</sup>
  - (b) "...Why should we assume that an independent ombudsman having dismissed these complaints in the absence of any amendments to the pleadings that these issues are going to be litigated?"<sup>316</sup>
  - (c) 'She's gone to the ombudsman and the ombudsman has dismissed her complaint and so therefore if - my client is entitled to assume that if the complaints have been dismissed by an independent not for profit arbiter whilst proceedings had been stayed and if the substance of the complaint to the ombudsman is not thereafter pleaded, my client is entitled to assume that it's not going to be an issue in the proceedings.'<sup>317</sup>
210. Mr Hartford Davis' above statements is misleading:
- (a) The **CIO** complaint was not dismissed and did not progress to the investigation phase and was not determined. It was closed at the review stage<sup>318</sup>;
  - (b) There is no legislation or **CIO** rule and guideline that prevent parties from litigating issues not resolved in the **CIO** process, in court proceedings.
211. Piper Alderman's invoice shows Mr Ammer's attendance record in preparation for the final hearing, wilful and reckless disregard of confidentiality of dispute resolution and **CIO** rules:
1. On 13/7/2016: '**Reviewing and considering all phone recordings and all CIO/FOS correspondence for cross examination material**';
  2. On 16/7/2016: '**...review CIO correspondence.**'<sup>319</sup>
212. At the final court hearing on 18 and 19 July 2016, Piper Alderman and its Counsel wilfully provided documents obtained in the **CIO** process, not compelled by the court, in breach of **CIO** rules. During my cross-examination, Mr Hartford Davis asked questions in relation to the contents of my complaint lodged with the **CIO**, (the **CIO** process was closed in August-October 2015 at the review stage). I believe that the **CIO** process is used by Credit Corp/Piper Alderman as a venue to penalise, go on a fishing expedition for information, to harass, embarrass those who proceed to litigate their matter. Mr Harford Davis with Mr Ford, placed more importance of the **CIO** process/complaint than what it was and used it at court. Throughout the court proceedings, they never spent any time to identify and specify what the credit card contract was as pleaded in the **ASOC**.

<sup>313</sup> Mr Florian Ammer, Partner of Piper Alderman, witnessed the said affidavit.

<sup>314</sup> Para 30 page 54 in Court Transcript 30/3/2016.

<sup>315</sup> *Ibid.*

<sup>316</sup> *Ibid.*

<sup>317</sup> This is contrary to the standard practice of the **CIO** EDR process which Credit Corp ought to be aware; The affidavit of Mr Mennilli witnessed by Mr Ammer demonstrates that Piper Alderman/Mr Ammer/Mr Mennilli are aware of the **CIO** rule and had annexed a copy of the rule in the said affidavit.

<sup>318</sup> Correspondences from **CIO** and chronology of evidence annexed in my affidavit dated 16/12/15. Available upon request.

<sup>319</sup> Refer to Mr Ammer's attendance recorded on 13/7/2016 and 16/7/2016 in Invoice dated 8/8/2016 in **Annexure "B.1"**.

**v. Aided and Abetted Piper Alderman Client's Employee/Witness to commit perjury - Mr Adam Carpenter.**

213. Credit Corp's employee, Mr Adam Carpenter<sup>320</sup> **perjured giving evidence at court on 18 July 2016, misleading the court that they have an entitlement to a claim pursuant to a contract**, contrary to Credit Corp's evidence and correspondence dated 20/5/2015<sup>321</sup> that **no contract** was available. Mr Carpenter committed a serious indictable offence.<sup>322</sup>
214. Mr Carpenter is Credit Corp 'chief witness' in court proceedings nationally. He is found in reported cases to give evidence in cases from different states of Australia. Mr Carpenter is used to give evidence where he is not in the capacity to give evidence such as in the shoes of the bank and/or bank employee, which was done in this case<sup>323</sup>.

**(a) Representations of the Credit Contract**

215. On **3 March 2015**, the Financial Ombudsman Services, ("**FOS**"), stated the following issues in reply to the report lodged with the **FOS** on 18/2/2016 and that such complaint was forwarded to **CIO**.

*.... failure by St George to provide you with copies of credit card documentation, such as a credit contract...*

*...In resolution of the dispute, you are requesting:*

- *St George to "confirm and clarify the credit card contract that has never been provided to me"; and*
- *The Financial Ombudsman Service (FOS) to "investigate the way this credit card was assessed and processed"...*<sup>324</sup>.

216. Credit Corp correspondence dated **20 May 2015** addressed to the **CIO**, during EDR **CIO** process, expressly stated: '**...Due to the age of the account a copy of the contract is no longer available...**'.
217. Upon the commencement of the proceedings and receiving a claim by Credit Corp which pleaded a credit card contract which I never saw nor had in my possession, I immediately made multiple enquiries with St George Bank and Swann Insurance to be provided with the credit card contract represented as a 'material fact' in the claim including any related credit insurance contract. All representatives that accessed the account informed me that they do not have any credit contract<sup>325</sup>.
218. On **2 June 2015**, Mr Carpenter contacted me by phone. The following conversation effectively took place, where Mr Carpenter argued no contract is required to be assigned or to pursue a claim, blatantly disregarding credit laws and regulations. Credit Corp employee, Mr Carpenter, dealing on a regular basis with claims governed by credit/consumer law is expected to know applicable credit law that apply to such accounts and to the essential documents which must be pursuant to the credit legislation. (*Emphasis in bold added*):

Me: *'The question I have for you is do you have the right of this debt?'*

Carpenter: *'What do you mean do we have a right?'*

<sup>320</sup> Credit Corp proudly promoted Mr Carpenter as its 'Trojan' in Credit Corp's 2005 Income statement.

<sup>321</sup> Credit Corp breached inherent EDR confidentiality and CIO rules, disclosing what transpired in the CIO process in the court proceedings.

<sup>322</sup> Mr Carpenter's perjury at court contradicts Credit Corp's court evidence and the statement by Credit Corp's employee, Mr Dale Nolan in his letter to **CIO** dated 20/5/2015. Credit Corp demonstrates that it promotes Mr Carpenter's act of perjury by assigning him a new role of a 'Head of Legal Compliance and Operational Strategy'.

<sup>323</sup> See **Annexure "L"** of *'Adam Carpenter - Perjury at Final Hearing'*.

<sup>324</sup> **FOS** letter dated 3/3/2015 is available upon request.

<sup>325</sup> A table of chronology of communications was annexed in my affidavit sworn 16/12/2015 and is available upon request.

Me: 'do you have the right of this debt, if you say there is assignment of debt - assignment of what?'

Carpenter: 'Okay, well the debt has been assign'

Me: 'No no, **Assignment of debt needs to have a contract**'

Carpenter: '**No its doesn't...** and I think.... There is a contract between us and the Assignor ....'

Me: 'Well the credit card does exist but that's not the issue Adam please don't go around in circles..'

Carpenter: 'It is an issue, because the main issue that the court will.. they will care about a few things they will care **whether or not there was a contract, I don't need a written contract**, they'll care about the fact that you have benefit of these funds... **it's a validly owed debt...**'

219. The above statements by Mr Carpenter in justifying that there is no need for a contract to be assigned only demonstrates that he is aware **no credit card contract** exists in relation to the account in this matter.

### (b) Evidence

220. Mr Carpenter is Credit Corp's employee and used as the 'chief witness' in court proceedings to give evidence (affidavit evidence and under oath in court hearings).

221. Before the court on 18 July 2016 Mr Carpenter gave evidence stating in respect to the interest rate that it was pursuant to the contract. Such evidence is contrary to representations in written correspondence from Credit Corp representative dated 20/5/2015 and Representatives of St George Bank, Swann insurance, and in the **CIO** process. No credit contract was provided/produced or obtained. Mr Carpenter gave evidence contrary to his own statement made to me on 2/6/2015 (above). Further, no credit card contract nor insurance contract were produced under subpoena or throughout the proceedings.

222. Mr Carpenter was aware at all material times that the **pleadings in the claim refer to a credit card contract, which does not exist**, however, with the assistance of the lawyers, Piper Alderman:

(a) filed a false claim pleading a credit contract as a material fact and a cause of action<sup>326</sup>;

(b) Fabricated that the documents provided in Mr Carpenter's Affidavit sworn 24 March 2015 under the heading of Defendant's credit card contract,<sup>327</sup> were the credit card contract.

Which lists:

- a. The Bank's internal 'electronic credit card application form';
- b. The Bank's internal 'credit card application summary';
- c. The Bank's general 'card collection form';
- d. The Bank's General Credit Card Conditions of Use dated 1/2/2006.
- e. Statements.

223. The documents under the Defendant's credit card contract in Mr Carpenter's Affidavit sworn 24 March 2015:

(a) **do not constitute a credit card contract pursuant to legislation**;

(b) no credit insurance contract is provided;

(c) The general "Credit Card Conditions of Use" dated 1/2/2006 is a booklet, a general bank brochure for multiple products and does not contain any particulars such as the specific

<sup>326</sup> Breach of the credit law, s80(1) of *Consumer Credit Code* /s88(1) of *National Credit Code*. See 'Background of Applicable Legislation' on p.31 in this report.

<sup>327</sup> Exhibits Tab 1 to Tab 5 in the said affidavit.

product, the account, account number, no particulars of fees/charges/interest, no details of the customer/parties no names, address etc. Further, another general brochure "Credit Card Conditions of Use" dated 1/8/2003 is provided in Exhibit Tab 15 of the said affidavit, also with no particulars. Both said general brochures specifically refer to a core essential document - an 'Offer', never provided/produced and completely ignored by Piper Alderman, its counsels and my purported legal representatives, despite multiple references to its absence in my affidavit evidence.

224. During cross-examination on 18 July 2016, Mr Ford questioned Mr Carpenter only leading him to the DSA agreement (Debt of Sale Agreement between St George Bank and Credit Corp), not a credit card contract pleaded in the **ASOC**. Mr Ford never identified/specified nor questioned the credit contract and its existence<sup>328</sup>. Mr Ford only sought to ask Mr Carpenter questions, which effectively eliminate the issue of the existence of the credit contract, stating such questions which gave evidence at the bar table when he asked Mr Carpenter: '**Does the higher interest rate come contract documentation the St George Bank and the defendant?**' (On review of the case and Court Transcripts, I asked Mr Ford in my letter to him dated 28 April 2017 what contract he referred to in this matter, as it did not exist? Mr Ford refused to answer. He deflected, dismissed and remained silent on questions put to him in relation to the credit card contract).

225. On 18 July 2016, at the final hearing, during cross-examination by Mr Ford, Mr Carpenter stated under oath (*emphasis in bold added*).

Mr Ford (Q): Thank you, sir. You've given some evidence earlier about the interest rates and the discounted interest rates you used, paragraph 9 of affidavit 2, is your case that the interest rate applied was 8.66? <sup>329</sup>

Mr Carpenter (A): 8.66% per annum was the reduced rate; that's correct.

Q. What does that mean, a reduced rate? Do you say you have an entitlement to charge a higher rate?

A. Correct, yes.

Q. I think your counsel put on the record earlier that there's about a \$25,000 exposure that the defendant is not being sued for in these proceedings, is that the position of the plaintiff?

A. That's right, yes.

Q. Exhibit 7 that was handed to me two milliseconds ago sets out the calculations in relation to the differences between 8.66 and the higher interest rate <sup>330</sup>.

A. That's correct, yes.

Q. Tell me about that higher interest rate. Does that come from the contract documentation between St George Bank and the defendant, is that your understanding?

A. The interest rate is provided at the time of load by the bank.

Q. Please listen to me very carefully, sir. **Does the higher interest rate come from the contract documentation the St George Bank and the defendant?**

A. Yes, it does.

Q. Is the procedure this, that Credit Corp purchases debts from institutions like St George?

A. Yes; correct.

Q. I'll refer to them as "St George" instead of using "Bank" in every sentence. Do you understand that?

A. Yes. Happy with that, yes.

<sup>328</sup> Issues highlighted by Magistrate Pierce on 30/3/2016 during the interlocutory court hearing.

<sup>329</sup> Reference to Mr Carpenter's affidavit provides no such interest pursuant to any credit card contract. Mr Carpenter represents the 8.66% is a rate Credit Corp arbitrarily applied to the account.

<sup>330</sup> Exhibit 7 in the court exhibit list is recorded as 'Credit Corp Document', which is not found in the court file. Mr Ford never asks about their pleaded credit card contract nor the credit insurance contract, the issues of their existence, which he is fully aware I never received to date.

**Q.** *It's the case, isn't it, sir, that you've **annexed the contract** to your first affidavit between St George Bank and Credit Corp? That's at page 199* <sup>331</sup>.

**A.** *Yes. That's right.*

**Q.** *Is that a pro forma contract or is that the contract?*

**A.** *The debts are--*

OBJECTION. IRRELEVANT. LEGAL ARGUMENT

**FORD:** *Your Honour, as I understand counsel, he can't object to a line of questioning. He can object to questions as they arise. I'm taking the witness to an exhibit in his own affidavit. May I continue?*

**HER HONOUR:** *You can but, taking the point of Mr Hartford-Davis, you're taking this witness to the **debt sale agreement between St George Bank and Credit Corp.*** <sup>332</sup> *The assignment is not in issue.*

**Q.** *'.... Does the **higher interest rate come from the contract documentation the St George Bank and the defendant?**'*

**Mr Carpenter:** *'Yes, it does.'* <sup>333</sup>

### (c) The EDR - CIO Process

226. From February to approximately October 2015 the matter was with Credit and Investments Ombudsman. **CIO** was supposed to investigate the matter. Upon holding onto the matter for approximately 8 months, **CIO** closed the complaint at the review stage, without an investigation, despite serious issues put to **CIO**, such as non-existence of any credit card contract etc. **CIO** and the Plaintiff were always on notice that I do not have any credit card contract they refer to in their pleadings.
227. Sometime in 2015 I found out that **CEO** of Credit Corp, Mr Thomas Beregi is one of the Board Directors of **CIO**, which I believe is a conflict of interest, as CIO poses itself as an '*independent and impartial dispute resolution service to consumers*'<sup>334</sup>. I also found out that **CIO** is registered as a corporate law firm under Law Society of NSW.<sup>335</sup> **CIO** does not disclose this fact nowhere on their website, in their Constitution or other online documents. I was misled to believe that **CIO** is an independent ADR process. I found that they were frustrating the process, delaying resolution, deflecting/not addressing the issues put to them, exerting pressure on me to accept an offer from Credit Corp, who made such offer without producing a credit contract they rely upon in their pleadings.
228. In their letters to Credit Corp, **CIO** addressed them as "*Dear team...*" In August 2015, **CIO** abruptly closed the complaint without notifying me. Upon my queries about why matter was closed without any investigation, CIO staff member Ms Hur who stated that she would be reviewing the matter contacted me. Mr Hur reopened the matter and "reviewed" it for about one month without contacting me and without asking any questions, and then she closed the matter. **CIO** staff I dealt with, **Mr Margaret Hur, Ms Kathryn Cole and Ombudsman Mr Raj Venga** did not disclose in their correspondences to me that they were all lawyers. Piper Alderman and its counsel, Mr Hartford Davis and Credit Corp's witness Mr Carpenter, despite

<sup>331</sup> The real issue of the **credit card contract** pleaded as a material fact and cause of action in the **ASOC** is not asked and the issue, which was extensively highlighted before Magistrate Pierce of the non-existence of the credit card contract, denial of entering the credit card contract, are never addressed/ventilated/asked from any witness. Mr Ford raises a question about an agreement between the bank and Credit Corp, which is not the real issue in dispute.

<sup>332</sup> Magistrate Freund is fully aware of the agreement between the Bank and Credit Corp, but will **never ask or seek any clarification about the alleged "credit card contract" pleaded in the ASOC, which was never identified, specified, produced/admitted in evidence nor asked to be identified and referred to by any witnesses throughout the entire two day hearing.** Yet, Magistrate Freund judgment records the proceedings as a 'credit card contract' case, when she never heard any issue or dispute on the credit card contract and it was never ventilated. The case **Magistrate Freund heard was a 'signature issue on a card collection form'**. That was the core document she relied to determine a right to a claim - **not the case pleaded in the ASOC or pursuant to any law.** Credit law was never applied.

<sup>333</sup> Transcript dated 18/7/2016, available upon request; See **Annexure "L"** of '*Adam Carpenter - Perjury at Final Hearing*'.

<sup>334</sup> CIO website. Accessed online 18/6/2016 at <<https://www.cio.org.au/about-us.html>>

<sup>335</sup> See Law Society of NSW website.



**CIO EDR** confidentiality rules, used **CIO** documents and information obtained during **CIO** process in the final hearing.

229. The following is an excerpt from the Court Transcript where Mr Ford put into question the **CIO** process. Mr Hartford Davis and Mr Ford used the court time to ventilate the **CIO** process (a confidential process, bearing no relevance to the issues in the proceedings, the complaint being closed at the 'Review phase' and not investigated). However, the material credit contract, the subject of the proceedings as pleaded in the **ASOC** is not ventilated, not brought up in the line of questioning to the witnesses (never specified, identified, referred nor produced or admitted in evidence throughout the hearing). Mr Ford shows his collusion with Piper Alderman/Mr Hartford Davis eliminating the credit contract issues, both stating that '**the credit card the subject of these proceedings**'.

Mr Ford ("Q"): Do you know whether the plaintiff participated in either one of those complaints?

Mr Carpenter ("A"). Participated, to the--

A: Made submissions?

A. No, not in relation to CIO.

Q. You can't assist her Honour any further in relation to whether or not the plaintiff participated in relation to the complaints to the ombudsman? In relation to the CIO ombudsman complaint, no, the plaintiff, outside of - sorry, did you say the bank? Sorry, are you saying the bank - did the bank let the client--

Q. No, the plaintiff, I said

A. Okay. The plaintiff. Sorry, yes, that's us.

Q. Yes.

A. Yes.

Q. That's you, yes.

A. Yes. Absolutely. Sorry. I don't do this very often.

Q. The question to my question is that the plaintiff did participate in the ombudsman complaint, correct?

A. Yes. Absolutely, yes.

Q. You have no personal knowledge as to whether the poverty index was applied in or about February 2006 to **prove the credit card the subject of these proceedings**<sup>336</sup>, do you?

A: I do understand that that is the case, yes.

Q. What's the source of that knowledge

A: Well, look, I, in my dispute resolution function capacity - so that's one of the things that I do for Credit Corp. A large part of my role is to deal with Ombudsman cases and those matters include unconscionable lending cases, so I have a degree of experience in how decisioning is made through the banks"

Mr Ford: Q. Sir do you have experience in lending practices as banks?

Mr Carpenter: A: Yes, I do

230. Piper Alderman and Mr Ford assisted Mr **Carpenter to commit perjury** under oath on 18/7/2016, in giving evidence standing in the shoes of a Bank employee, as Credit Corp was placed in the shoes of St George Bank in 2006. Mr Carpenter gives evidence as follows:

- (a) his 'experience in lending practices at banks'<sup>337</sup>;
- (b) his 'degree of experience in how decisioning is made through the banks'<sup>338</sup>;
- (c) that he had knowledge about prudence related to 'banking practice, from ... experience, as at 2006'<sup>339</sup>;
- (d) how bank did landing decision assessments back in 2006 "in order to determine whether or not the loan was affordable."<sup>340</sup>

<sup>336</sup> Mr Ford never stated to me nor gave any advice that the 'credit card' is the subject of these proceedings.

<sup>337</sup> Para 50 page 37 Court Transcript 18/7/2016. Cross Examination by Mr Ford.

<sup>338</sup> Para 5 page 21 Court Transcript 18/7/2016. Cross Examination by Mr Ford.

<sup>339</sup> Para 30 page 39 Court Transcript 18/7/2016. Cross Examination by Mr Ford.

<sup>340</sup> Para 50 page 39 Court Transcript 18/7/2016. Cross Examination by Mr Ford.

The above qualifications and experience are contrary to Mr Carpenter's affidavit evidence in respect to his qualification and experience.

See "Adam Carpenter - Perjury at Final Hearing" in Annexure "L".

**vii. Piper Alderman's Law Clerk, Owen Nanlohy - Impersonation of a Legal Practitioner.**

**(a) Court Appearance on 16 August 2016 - Mr Nanlohy Impersonating Barrister, Mr James Willis.**

231. On 16 August 2016, Mr Owen Nanlohy, impersonated a counsel, Mr James Willis and appeared before the court with Ms Miller (who was impersonating an instructing solicitor, Ms Anne Freeman), sitting at the bar table next to Mr Nanlohy.
232. At the same time in court on 16/8/2016, **Mr Ammer sat at the back of the court**, encouraging and enabling the gross dishonesty and disrespect of the court. Such conduct by Ms Miller and Mr Nanlohy constitutes indictable offences and Mr Ammer assisted this conduct.
233. In the **CAA** filed at the Supreme Court on 9/1/2018, Piper Alderman/Mr Ammer recorded Mr James Willis' attendances:
- " 924 15.08.16 Review brief and authorities re offer of compromise - 3 hours 5 minutes \$812.50  
925 16.08.16 Preparing for and attending hearing - 1 hour \$250.00 "<sup>341</sup>.
234. Barrister Mr Willis did not appear at Court on 16/8/2016 and he confirmed that he was not at court on that date during the cost argument hearing on 29/8/2016.<sup>342</sup> The above attendances are false and made up by Piper Alderman/Mr Ammer in order to mislead and obtain unlawful financial gain during the costs assessment process.
235. No invoices/receipts were provided in the **CAA**<sup>343</sup> to verify such attendances. Further, Mr Ammer sat at the back of the courtroom on 16/8/2016 and observed Mr Nanlohy, Piper Alderman's law clerk, impersonating barrister Mr Willis and Piper Alderman's paralegal Ms Miller sitting next to Mr Nanlohy at the bar table, impersonating an instructing solicitor.
236. Para 5-10 Page 2 of the Transcript dated 16/8/2016 provides, (*Emphasis in bold added*):
- HER HONOUR: "... **Mr Willis**, but as Mr Ford is not here, I'm not going to push you on."  
[Mr Nanlohy impersonating Mr Willis]: "**Yes, your Honour.**"
237. Mr Nanlohy (impersonating Mr Willis) wanted to make an application for costs hearing to be conducted on that day as follows:

Para 45-50 Page 2 of the Transcript dated 16/8/2016 provides, (*Emphasis in bold added*):

[Mr Nanlohy impersonating Mr Willis]: "*Your Honour, the alternative position is that - I wasn't counsel that appeared in the substantive hearing but I understand that your Honour indicated that on the date you'd be delivering judgment, you would also be hearing the parties in relation to costs.*"

<sup>341</sup> Refer to Annexure "A.2".

<sup>342</sup> Court transcript 29/8/2016. Available upon request.

<sup>343</sup> Notices of such issues were put to Piper Alderman and raised in the Cost Assessment process with Mr Rosier. No response has been provided to date. Such notice is simply ignored by Piper Alderman, a standard conduct when notices are put to them.

HER HONOUR: "I did actually indicate that at the time."

[Mr Nanlohy impersonating Mr Willis]: "I'm in the same position as my friend, that I wasn't counsel that appeared at the hearing, but **I don't see any reason why, in circumstances where what I'll be relying on is an offer of compromise, there's any difficulty caused to my friend in relation to dealing with that issue today.**"

238. Magistrate Freund sought for availability for 29 of August, [Mr Nanlohy impersonating Mr Willis] confirms suitability. Para 45-50 Page 3 of the Transcript dated 16/8/2016 provides, (*Emphasis in bold added*):

HER HONOUR: "... Did everyone say they're available on the 29<sup>th</sup>.."

[Mr Nanlohy impersonating Mr Willis]: "**That's suitable.**"

### **(b) Court Appearance on 29 August 2016 - The Real Mr James Willis.**

239. On 29 August 2016, for the cost argument hearing, **the real barrister Mr James Willis appeared** before the court. Again Ms Miller impersonated instructing solicitor Ms Anne Freeman and sat at the bar table instructing Mr Willis.

240. At court, as evidenced by Court Transcript dated 29/8/2016, Mr Willis acknowledged that **he was not at court on 16 August 2016**, contrary to the representations in court and Court Transcript on 16/8/2016 (Examples as above in (a)). **Magistrate Freund, despite addressing Mr Nanlohy as "Mr Willis" on 16/8/16, simply confirmed and acknowledged that she was fully aware Mr Willis was not in court on 16 August 2016.**

241. As shown by the transcript below, Magistrate Freund demonstrated full knowledge that two different people appeared before her on 16/8/2016 and on 29/8/2016, yet she referred to them both as "**Mr Willis**"<sup>344</sup>.

242. In Para 5-10 Page 3 of the Court Transcript 29/8/2016, the real Mr Willis, acknowledged on record that **he did not appear on 16 August 2016.** (*Emphasis in bold added*):

HER HONOUR: "Great. Thank you. I did make comments on the last occasion--"

WILLIS: "**Yes. I wasn't here.** Yes. Thank you."

HER HONOUR: "**No, I know you weren't here**, but my preference is not to go through and read through taxable invoices. The Court is busy enough and we really don't need further stress."<sup>345</sup>

### **(c) Significant Role of Mr Nanlohy.**

243. Piper Alderman invoices demonstrate that Mr Nanlohy had a significant role in the proceedings. Recorded attendances by Mr Nanlohy commenced shortly after Mr Ford was involved in this case. Mr Nanlohy was responsible for researching how to circumvent the strict credit laws and applicable legislation.

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<sup>344</sup> There is no other Mr James Willis admitted at the Bar and I was present with my witness, Mr Bryl. We saw Mr Nanlohy at the bar table in court appearing for Credit Corp on 16/8/2016. Paralegal Ms Miller was, as usual, impersonating solicitor Ms Freeman and sitting at the bar table instructing Mr Nanlohy. Mr Ammer sat at the back of the court as observer.

<sup>345</sup> Magistrate Freund gave costs and indemnity order without knowing the gross costs incurred and on the basis of Mr Ford's false evidence given at the bar table of a contract provided on 12/1/2015, which was never my case and I never gave such evidence, it was given solely by Mr Ford at the bar table and in the submissions he drafted. Magistrate Freund recorded her reliance on Mr Ford's evidence in judgment dated 16/8/2016 and in the cost judgment dated 2/9/2016.

244. Mr Nanlohy provides misleading statement in his LinkedIn profile<sup>346</sup> that he was a "Lawyer" at Piper Alderman since April 2016 until January 2018<sup>347</sup>. Mr Nanlohy was only admitted as a solicitor on 11/12/2017. A copy of Mr Nanlohy's LinkedIn profile is provided in **Annexure "K"**.
245. I have reasonable grounds to believe that Mr Nanlohy wilfully misleads that he was a lawyer since April 2016 because he had conducted work and appeared/attended courts, was heavily involved in research, drafting submissions and, most likely, have, on other occasions, impersonated legal practitioners during his time at Piper Alderman, such as that as a on 16 August 2016<sup>348</sup>, deliberately making submissions/applications before the court, impersonating a barrister.<sup>349</sup>
246. Piper Alderman invoice (No. 372120 dated 27/4/2016) records the first cost attendance by Mr Nanlohy dated 7/4/2016 as:
- 'Attending Florian Ammer with regard to paragraph 70 of the Further Amended Defence and cross-referencing alleged movements of the defendant on the date of collection of the credit card.'*
247. From April and July 2016, Mr Nanlohy's recorded attendances<sup>350</sup> show that his dedicated task was to research applicable acts: the *ASIC Act*, the *TPA 1974*. Such tasks/attendances correlate with "Defendant's written submissions" dated 29 July 2016 (filed 1 August 2016), which was represented to me by my purported legal representative, Mr Ford, that he had drafted<sup>351</sup> the said submissions, with the help of a 'law student'.
248. On review of the parties written submissions: Credit Corp/Piper Alderman's submissions and Mr Ford's submissions had similarities in style, language, referencing - as if they written by the same author.
249. Mr Nanlohy's academic papers, (amongst them, his University of Sydney 2012 thesis paper<sup>352</sup> and his 2015 article in Oxford University journal<sup>353</sup>), have striking resemblance with the way Credit Corp/Piper Alderman and Mr Ford' submissions were written. Further, Mr Nanlohy recorded his cost attendance dated 19/7/2016 at Piper Alderman invoice (No.378055) as "updating and amending closing submissions". Such cost attendance contradicts Piper Alderman's counsel, Mr Hartford Davis statement on record to court on 19/7/2016, that he [Mr Hartford -Davis] had drafted the submissions. Further, Mr Hartford Davis invoice (No.217 dated 21/7/2016), also indicates that Mr Hartford Davis did not attend to writing any such submissions. Mr Harford Davis filed them on 19 July 2016 with his name under the submissions, but without drafting them, which would take him a very considerable time noting the length of the submissions - 17 pages. Submissions are complex and written to mislead and they refer to the "contract" as a material document, while it does not exist in writing or any other form.

<sup>346</sup> Mr Nanlohy has an academic background. His LinkedIn profile indicates that he has a Bachelor of Arts in History and Government (2005-2012) from the University of Sydney, Bachelor of Arts in Jurisprudence, Law from Oxford (2013-2015), he has been a Research Officer for the Office of The Hon. Bob Carr (2009), Law Tutor at the University of Sydney in Contracts and Torts (2016-2018) and worked as a "Lawyer" at Piper Alderman since April 2016 until January 2018. Mr O.Nanlohy's LinkedIn account, accessed 20/5/2018: <<https://au.linkedin.com/in/owennanlohy>>.

<sup>347</sup> Since January 2018 he works as a "Policy Adviser" at the office of the Hon. Mark Dreyfus QC MP in Melbourne.

<sup>348</sup> 'Conduct of deliberate dishonesty', *Legal Services Commissioner v Gemma Anna Busch* [2011] QCAT 165.

<sup>349</sup> Mr Brendan May and Ms Hannah Veldre in Piper Alderman advertisement (Refer to **Annexure "M(b)"**) confirm that it is normal practice for Piper Alderman to use law clerks to attend courts, instruct counsels and draft written submissions.

<sup>350</sup> An amount of \$6,330.50.

<sup>351</sup> Email from Mr Ford to me dated 27 July 2016.

<sup>352</sup> Mr O.Nanlohy's University of Sydney thesis work for the degree of B.A. (Hons) in History dated October 2012: "'A Test of Loyalty": A History of the Federal Australian Labor Party and the United States Alliance 1960-1967', 112 pages, viewed 21 May 2018: <[https://ses.library.usyd.edu.au/bitstream/2123/8832/1/Nanlohy%2CO\\_thesis\\_2012.pdf](https://ses.library.usyd.edu.au/bitstream/2123/8832/1/Nanlohy%2CO_thesis_2012.pdf)>.

<sup>353</sup> Nanlohy, O., 2015, 'A Failure to Protect: The Shortcomings of the United Kingdom's Judicial Response to the Privatisation of the Public Realm', *Oxford University Undergraduate Law Journal*, Issue [4] 2015, pp.63-74, viewed 21 May 2018: <[https://www.law.ox.ac.uk/sites/files/oxlaw/4th\\_edition\\_ouulj.pdf](https://www.law.ox.ac.uk/sites/files/oxlaw/4th_edition_ouulj.pdf)>.

250. Side by side comparison (writing style, wording, expressions used, style of referencing) of Mr Nanlohy's academic papers (available online) with the submissions filed by Mr Hartford Davis and Mr Ford shows strong similarities indicating that **Plaintiff's and Defendant's submissions were prepared in collaboration - by Mr Nanlohy, who drafted the submissions for both counsels. Mr Brendan May in Piper Alderman advertisement acknowledges that it is normal practice in Piper Alderman that law clerks draft written submissions.**<sup>354</sup>
251. "Plaintiff's submissions in Reply" were filed by Mr Hartford Davis on 3/8/2016, but have the same date as original Plaintiff submissions - 19/7/2016. "Plaintiff's submissions in Reply" were clearly drafted by the same author as the submissions filed on 19/7/2016. There are reasonable grounds to believe that all of the submissions (Plaintiff's, Defendant's, Plaintiff's submissions in reply) were drafted, prepared and written prior to the court hearing in collaboration and coordination between Piper Alderman and Mr Ford.
252. On 2/8/2016, Mr Ford called me on the phone and stated:
- 'I was very happy with the submissions... I've got a law student on one of the research topics, so, you know... we were, he had quite a lot of input at the back end of those...'*<sup>355</sup>
253. The draft of written submissions dated 29/7/2016 purportedly drafted by Mr Ford did not match his style of writing when compared with the "Court outline" dated 30/3/2016, "Court outline" dated 18/7/2016 and Mr Ford's "Seminar notes".<sup>356</sup> Further, Mr Ford could not have had a random law student to assist him. It would be impossible for a random law student to understand the complexity of this matter and simply assist with the written submissions. Mr Ford never sought any instructions from me during any drafting of such submission.
254. Mr Nanlohy's recorded attendances correspond to the tasks conducted by someone writing both Plaintiff's and Defendant's submissions.
255. The Table Mr Nanlohy's recorded attendances<sup>357</sup> supports that there is a correlation of Mr Nanlohy's attendances to researching and drafting and settling both parties (The Plaintiff's and Defendant's) submissions. See '*Table of Attendances - Owen Timothy Daniel Nanlohy*' in **Annexure "K"**.
256. I submit that **Mr Owen Timothy Daniel Nanlohy is not a fit and proper person to be a legal practitioner and to practice law.** The public and the legal community needs to be protected from Mr Nanlohy and Piper Alderman lawyers involved in the improprieties and criminal conduct committed in this case. Mr Nanlohy's deliberate and blatant conduct including impersonation of a barrister at court on 16/8/2016, in assisting criminal conduct of Piper Alderman aimed to pervert the course of justice is not to be tolerated. He grossly undermined the integrity of the legal system and the legal profession.

<sup>354</sup> Refer to **Annexure "M (b)"**

<sup>355</sup> The "law student" Mr Ford mentioned to me could only be Piper Alderman law clerk Mr Nanlohy, who drafted submissions for the Plaintiff (as evidence by his cost attendances) and also for Mr Ford. That explains why submissions are so similar, so lengthy, have same referencing style, and both Plaintiff's and Mr Ford's submissions misleadingly refer to the "contract" as if it is a material document in the evidence. Submissions were written to mislead any reader and me. The complexity of submissions indicate that all three submissions (1.Plaintiff's; 2.Defendant's and 3.Plaintiff's Reply) were most likely written and prepared by the same person for many weeks prior the trial. Mr Nanlohy's act of impersonation of barrister Mr Willis at court on 16/8/2016 confirms that he was very much involved in the improprieties conducted in the case.

<sup>356</sup> Available upon request.

<sup>357</sup> From Piper Alderman invoices in Exhibit Tab 1 of Mr Ammer's sworn affidavit dated 15/8/2016 in **Annexure "B.1"**.

**viii. Piper Alderman's Paralegal/JP, Natalie Louise Miller - Impersonation of a Legal Practitioner and Handled/Tampered/Created Evidence at Final Hearing.**

**(a) Wilful Impersonation of a Solicitor.**

257. Paralegal and a Justice of Peace, Ms Natalie Miller wilfully impersonated a solicitor/instructing solicitor at full day court hearings, interlocutory hearing, appearances/mentions and approximately 10 return of subpoena court events.

*'...it is illegal under the Legal Profession Act 2004 for people to engage in legal practice, or hold out that they are entitled to do so, without holding a current Practising Certificate. Such people are called unqualified practitioners. They are generally unaccountable for their actions leaving you with few options for recourse if something goes wrong.'*<sup>358</sup>

258. On 17 December 2015, Ms Miller attended the court with counsel, Mr Hartford Davis, impersonating a solicitor instructing Counsel.

(a) I was misled to believe that Ms Miller was a solicitor. In my letters to Piper Alderman dated 23/12/2015 and 2/2/2016, I referred to Ms Miller as a solicitor in attendance at court on 17/12/2015. Piper Alderman/Partners: Mr Ammer and Ms Freeman, allowed the deceit to continue by not responding to my letters and addressing the matter, giving no notice to me that Ms Miller was not a solicitor;

(b) My legal representative, who appeared on my behalf at the said court date, Mr Nicholas Silva, was also misled, referring to Ms Miller as *'the solicitor for the Plaintiff'* in his letter dated 21/12/2015<sup>359</sup>.

259. On 30 March 2016, Credit Corp/Piper Alderman's counsel, Mr Hartford Davis<sup>360</sup> referred to Ms Miller as his ***'instructing solicitor'***. Paralegal and Justice of the Peace, Ms Miller exercised the privileges of a legal practitioner, sitting at the bar table next to Counsel, throughout the entire full day hearing. Neither Ms Miller nor Counsel, Mr Hartford Davis gave notice to the court that Ms Miller was not a legal practitioner. The court and all other parties present at court were misled to believe Ms Miller was a solicitor at the bar table instructing counsel. Mr Hartford Davis, failed his professional obligations on every occasion Ms Miller appeared in court with him, deliberately misleading the court and referring to Ms Miller as his ***'instructing solicitor'***<sup>361</sup>. (Quote, emphasis in bold added):

HARTFORD-DAVIS: ***'... my instructing solicitor asked to be excused so that she can attend return of subpoena list...'***<sup>362</sup>

260. On 18 and 19 July 2016, during the final hearing, Ms Miller posed as an instructing solicitor and sat at the bar table with Counsel, Mr Hartford Davis, throughout the entire two-day final

<sup>358</sup> Law Society of NSW website. Accessed on 20/6/2018 via <<https://www.lawsociety.com.au/for-the-public/going-court-and-working-with-lawyers/solicitor-client-relationship/is-your-solicitor-qualified>>

<sup>359</sup> The said letter available upon request.

<sup>360</sup> One example of many. Ms Miller sat at the bar table with counsel to 'instruct' and she was referred by Mr Hartford Davis as his 'instructing solicitor' in court, (30/3/2016, 18/7/2016 and 19/7/2016). Counsel Mr Hartford Davis is a barrister of Tenth Floor Selborne Wentworth Chambers, a former employee of Piper Alderman. In the affidavit of Mr Ammer sworn 15/8/2016, Mr Ammer states that he 'authorises' Ms Miller to attend court and 'instruct'. This demonstrates wilful intention by Mr Ammer with assistance of Mr Hartford Davis to enable Ms Miller to mislead the court and all parties in court that she is a solicitor. There was no intention to give notice to the court that Ms Miller is not a legal practitioner.

<sup>361</sup> Rule 24 A - barrister must not deceive or knowingly or recklessly mislead the court (*LPUC 2015 (Barristers) Rules 2015.*)

<sup>362</sup> Para 25 p. 60 Court Transcript 30/3/2016.

hearing, never giving notice to the court, the opposing party and those in court that she was not a legal practitioner.

261. Throughout the final hearing on 18 and 19 July 2016<sup>363</sup> Piper Alderman Partner Mr Ammer with his team of four people sat at the back of the courtroom, witnessing Ms Miller impersonating a solicitor, that of Ms Anne Freeman. Mr Hartford Davis continued to refer to Ms Miller as his '**instructing solicitor**'<sup>364</sup>. On the court dates/events in which Ms Miller appeared in court hearings with counsel, the judgments and court documents recorded: '**Mr Hartford Davis, barrister instructed by Ms Freeman of Piper Alderman solicitors for the Plaintiff**'.
262. Piper Alderman/Partners: Mr Florian Ammer and Ms Anne Freeman aided and abetted Ms Miller to deliberately mislead the court to appear in court and impersonate a legal practitioner.

**(b) Gave Evidence and Tampered/Handled Witness Evidence at Final Hearing.**

263. During witness cross-examination at the final hearing on 19 July 2016, Ms Miller was assigned the task at the bar table, by Mr Hartford Davis, to present a new set of numbered photocopied signatures. Ms Miller was directed to circle the signatures, which corresponded to the signatures against the paper of signatures I was asked to circle whilst I was in the witness box. Ms Miller proceeded to circle the signature and her said documents were handed up with my evidence to the court, made part of the court file and exhibit<sup>365</sup>.
264. Upon inspecting the court file, in July 2017, the court file had pages of photocopied signatures. The circled signatures could easily be mistaken to be all my evidence. There is no record on the file or on the document that paralegal/JP Ms Miller circled the numbered signatures and had also crossed out a circled signature. I had discovered upon review of my evidence that Ms Miller had tampered with my evidence, as the question mark placed next to a signature in my evidence were found to have been crossed out. Ms Miller was the only one who had a pen and touched the said document in court during her review of my evidence circling her numbered signatures new piece of paper.
265. As Ms Miller was impersonating Ms Freeman at the final hearing, there is no record of Ms Miller that she sat at the bar table with the counsel, appeared in court and gave evidence/handled evidence and submitted to court. No one would know Ms Miller existed or was involved in this case by reviewing the court file, documents and transcripts. Piper Alderman, Ms Miller and counsel, Mr Hartford-Davis, never gave notice to the court that Ms Miller was not a solicitor.
266. In the fabricated and manipulated cost attendances attached in the **CAA** filed in the Supreme Court, Ms Miller's attendances of instructing the counsel at the hearing were deleted. The recorded attendance '**attends court and instruct Counsel**' in Piper Alderman's invoice,<sup>366</sup> is changed in the cost attendances in the **CAA, which** state Ms Miller's attendance as: '**attending conferences with counsel**'.<sup>367</sup> The changes indicate that Piper Alderman/Mr Ammer fabricated entries/cost attendances in the **CAA** (created them in November 2017). It was alleged by Mr Ammer that such preparation of the **CAA** costed \$13,750, the amount allegedly incurred by the DSA Cost Consultants Pty Ltd<sup>368</sup>.

<sup>363</sup> Evidenced in Mr Ammer's Affidavit 15/8/2016; and Piper Alderman/Mr Ammer's submission dated 27/4/2018, Mr Ammer confirms that he sat at the back of the courtroom during the entire two day final hearing.

<sup>364</sup> Court Transcripts 18 and 19 July 2016.

<sup>365</sup> **This is improper conduct, contrary to Evidence Act. However, Magistrate Freund allowed this conduct with no objection by my purported legal representatives.**

<sup>366</sup> See **Annexure "B.1"** invoices in Exhibit Tab 1 in the Affidavit of Florian Ammer sworn 15/8/2016.

<sup>367</sup> See Comparable table - Cost attendances in the **CAA** against the invoices in exhibit in the Affidavit of Mr Ammer sworn 15/8/2016 on p.91 in this report.

<sup>368</sup> No other persons other than the Piper Alderman lawyers involved in the case would know what Piper Alderman invoices cost attendances to delete, modify, and/recreate, in order to fabricate an alternative story in the **CAA** with the purpose to

267. Ms Miller repeated such conduct of misleading the court, impersonating a legal practitioner, on court dates:
- (a) On 16 August 2016 (Handing down the judgment). Ms Miller sat at the bar table with Mr Owen Nanlohy, (at the time Piper Alderman law clerk). Mr Nanlohy was impersonating barrister Mr James Willis<sup>369</sup>. Magistrate Freund addressed Mr Nanlohy as "Mr Willis".<sup>370</sup>
  - (b) On 29/8/2016 (Costs argument hearing). Ms Miller sat at the bar table with the real Mr James Willis, barrister. On Court Transcript Mr Willis confirmed that he was not present on the last court event on 16/8/2016. Magistrate Freund acknowledged that Mr Willis was not before her in the court on 16/8/2016<sup>371</sup>.
  - (c) On 2 September 2016 Ms Miller personally appeared before the court before Magistrate Freund to receive the cost judgment;
  - (d) Ms Miller made multiple appearances before the court for approximately 10 appearances for return of subpoenas<sup>372</sup>. Ms Miller sent correspondences to me, confirming she appeared at the return of subpoena at court and she had sent **correspondence to the court on my behalf without notice to me nor obtaining my consent**<sup>373</sup>.
268. On every occasion my witness and I saw Ms Miller before the court and placed herself at the bar table next to counsel, **the court was never given notice by Ms Miller, Piper Alderman nor the counsels that Ms Miller was not a legal practitioner.**
269. Mr Ammer, Partner of Piper Alderman, in his sworn affidavit 15/8/2016, justifies Ms Miller's attendances to court to instruct Counsel, that he '*authorises Ms Miller to appear at court*'<sup>374</sup>.
270. Ms Miller records her cost attendances in Piper Alderman invoices stating that she '*attends court and instructs Counsel*'<sup>375</sup>.
271. The judgments/court documents on 16/8/2016 and 2/9/2016 records '*Mr Hartford Davis, barrister instructed by Ms Freeman of Piper Alderman solicitors for Plaintiff*'. Ms Miller was the only person with the counsel at the bar table throughout the court hearings, impersonating Ms Freeman.<sup>376</sup> Piper Alderman has done nothing to correct the misleading representations in the court documents.
272. Piper Alderman, its Partners, Mr Ammer and Ms Freeman, with the assistance of Counsel, Mr Hartford Davis<sup>377</sup>, enabled and encouraged Ms Miller to mislead and to show gross disrespect to the court by impersonating a legal practitioner.

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mislead and defraud within the Supreme court - costs assessment process. No invoices/statements/receipts by DSA Costs Consultants or by Piper Alderman were provided during the costs assessment process to support alleged cost attendances in the **CAA** and no inquiries were made by the Costs Assessor Mr Rosier despite multiple notices of fraudulent costs attendances put to him. See Page 88 in this report and **Annexure "A.2"**.

<sup>369</sup> Court Transcript 16/8/2016. Available upon request. Refer to page 82 in this report.

<sup>370</sup> *Ibid.*

<sup>371</sup> *Ibid.*

<sup>372</sup> Based on Piper Alderman invoices exhibited in the Affidavit of Mr Ammer sworn 15/8/2016.

<sup>373</sup> As soon as I became aware of Ms Miller's appearance at court that she was a paralegal, on 19 July 2016 I promptly gave notice to Mr Ford and Mr Glynn to give notice to Piper Alderman and notify the court. They dismissed and disregarded my instructions and did nothing, allowing Ms Miller, Piper Alderman and its counsel, Mr Hartford Davis to continue grossly misleading the court.

<sup>374</sup> This is consistent practice of Mr Ammer to use his status as a partner to justify such improper conduct. Counsel, Mr Hartford Davis used Mr Ammer's status as a Partner as an excuse before Magistrate Pierce to justify the high cost already incurred on 30/3/2016.

<sup>375</sup> See **Annexure "B.1"**, invoices of Piper Alderman in exhibit Tab 1 in the Affidavit of Mr Ammer sworn 15/8/2016.

<sup>376</sup> Court dates: (a) Final hearing 18 and 19 July 2016; (b) Cost Argument hearing 29/8/2016; Further, Ms Miller recorded that she attended and instructed counsel on the said court dates in the cost attendances in Piper Alderman's invoices in **Annexure "B.1"**.

<sup>377</sup> Barrister, Mr Hartford Davis on record misled the court by stating before the court that Ms Miller was his 'instructing solicitor'. Refer to Transcript 30/3/2016 Para 25 page 60; and Para 25 page 27 on 19/7/2016.



273. Ms Miller, as a paralegal and a Justice of Peace has a higher standard expected from her than those from the general public. The **Code of Conduct as a Justice of Peace is to act with honesty**. Ms Miller has demonstrated gross dishonesty in impersonating a legal practitioner, misleading the court and the public on every occasion she appeared before the court and sat at the bar table, never giving notice to the court that she is not a legal practitioner.
274. Ms Miller is aware that counsel, Mr Hartford Davis, deliberately misled the court by referring to her as an *instructing solicitor*. Ms Miller is a willing participant, allowing the court, the Judge, the public and opposing party to be misled.
275. The wilful encouragement by the Piper Alderman/Partners<sup>378</sup>: Mr Ammer and Ms Freeman and the deliberate misrepresentation by Mr Hartford Davis that an unqualified person is his *instructing solicitor*, demonstrate the said legal practitioners failure to reach the standard of honesty, competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian Legal practitioner. The said legal practitioners failed their duty to the court.
276. There are reasonable grounds to believe, noting the blatant disregard of legislation and obligations, and the encouragement of unqualified persons to act as legal practitioners by Piper Alderman and its counsel, that to date, Ms Miller continues to appear before court, wilfully impersonating a solicitor/instructing solicitor, grossly misleading the court and the public.
277. Piper Alderman/Partners: Mr Florian Ammer and Ms Anne Freeman, responsible partners of the matter, were given notice of such impersonations by Ms Miller and Mr Nanlohy. To date, Piper Alderman/ Mr Ammer and Ms Freeman have not addressed the issue and remain silent on the matter. (Refer to *Notice of Issues and Conduct* - *Recent Notice* on page 38 of the said report).
278. In website advertisement, Piper Alderman's solicitors proudly promote that they appeared and exercised privileges of legal practitioners before their admission as legal practitioners. Refer to:  
 (a) Quotes by Solicitors, Ms Hannah Sue Veldre and Mr Brendan May.<sup>379</sup>  
 (b) Piper Alderman's law clerks role description: *We don't recruit law clerks to become additional administrative assistants, but rather to offer real legal support to our lawyers and partners. You will be kept busy with legal research, drafting and attending court.*<sup>380</sup>

The blatant advertisement by Piper Alderman, publicly promoting unqualified persons to exercise the legal privileges of legal practitioners gives rise to concern that such conduct is a standard business practice, likely to be systemic for Piper Alderman. Such conduct brings the legal profession into disrepute and diminishes public confidence in the legal profession.

279. I submit that **Ms Natalie Louise Miller is not of good fame and character to be admitted as a legal practitioner to practice law**. Notice should be given to the Justice Department of her unfitness to be JP. The public and the legal community are to be protected from Ms Miller and Piper Alderman lawyers involved in the improprieties and criminal conduct committed in this case. Ms Miller's blatant conduct is not to be tolerated as she has undermined the integrity of the legal system and the legal profession.

<sup>378</sup> Affidavit of Ammer sworn 15 August 2016 in **Annexure "B"**.

<sup>379</sup> Refer to Piper Alderman advertisement in **Annexure "M(b)"**. Accessed on 20/6/2018 via Piper Alderman website: <<https://www.piperalderman.com.au/careers/clerk-and-graduate-programs/clerk-and-graduate-experiences>>

<sup>380</sup> Piper Alderman's law clerks role description. Accessed on 20/6/2018 via Piper Alderman website: <<https://www.piperalderman.com.au/careers/clerk-graduate-programs/our-program>>.

## D. SUPREME COURT - ASSESSMENT APPLICATION.

280. Piper Alderman/Mr Florian Ammer (Partner/Solicitor of Piper Alderman) created, served and continue to rely on falsified documents - a Form A3 Supreme Court Cost Assessment application ("**CAA**"), to deceive, mislead and defraud. **Such conduct constitutes indictable criminal offences and is a breach of the ASIC regulations, accounting obligations and LPUL rules.**

### i. The Cost Assessment Application (CAA)<sup>381</sup>

281. On 28/11/2017 and 2/12/2017, I received two versions and four copies of the **CAA**, (approx. 165 pages each application), from Piper Alderman/ Partner of Piper Alderman Mr Florian Ammer.
282. All four copies of the Assessment Application served on me by Piper Alderman, were and are incomplete, deficient and non-compliant to the mandatory prescribed legislative requirements:
- (a) no cover sheet identifying the matter;
  - (b) no claim amount;
  - (c) no date;
  - (d) unsigned;
  - (e) the requirements set out in paragraph 6 of the application deleted<sup>382</sup>;
  - (f) paragraph 5 of the application crossed out<sup>383</sup>; and
  - (g) the itemised cost attendances are **falsified and unverifiable** - no supporting Bill of costs/invoices/statements was attached to the Assessment Application<sup>384</sup>.

### ii. Affidavit of Mr Florian Ammer (Partner) of Piper Alderman sworn 15/8/2016

283. Exhibits of Piper Alderman's Bill of costs/invoices/statements for the period: 12/12/2014 to 8/8/2016.<sup>385</sup> In the Affidavit of Mr Ammer's sworn 15/8/2016 ("**Affidavit of Mr Ammer**") were not attached to the **CAA**, and, when compared against the cost attendances in the **CAA**, do not correspond to the amounts and particularised attendances.<sup>386</sup>
284. In comparing the exhibits of invoices/statements in the **Affidavit of Mr Ammer**<sup>387</sup> to that of the particularised cost attendances in the **CAA**, there are multiple deliberate manipulations of itemised costs attendances, where tasks have either been: added, deleted, modified and/or elaborated/embellished, ("**manipulated attendances**").
285. Piper Alderman/Mr Ammer had wilful intent to mislead, deceive and defraud<sup>388</sup> in the conduct of providing **manipulated attendances** and stating that '*Full particulars of the plaintiff's costs have been provided to the defendant...*'<sup>389</sup> where no such particulars were provided to me. The

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<sup>381</sup> The Assessment Application served on me was approx. 160 pages each application. I received two copies via email and two copies via post. Two sets of copies with different attachments to the other 2 sets of copies - I was served two different versions of the Assessment Application. Refer to **Annexure "A"** and **"A.1"**.

<sup>382</sup> Different to the precedent A3 form on the Supreme Court website.

<sup>383</sup> Ignored court orders.

<sup>384</sup> Info sheet/Instruction sheet for 3A form of the Supreme Court instructs that the said form must be completed in full before it is sent to the respondent stating, '*Once you have prepared this application in full, send it to the costs respondent...*'.

<sup>385</sup> Refer to **Annexure "B.1"**.

<sup>386</sup> *Ibid.*

<sup>387</sup> Refer to **Annexure "B.1"**.

<sup>388</sup> Mr Ammer does not specify and identify what '*Full particulars*' he represents were provided to me. This is consistent behaviour of Piper Alderman/Mr Ammer not to specify and identify documents, a wilful intent to mislead by omission and misdirection. An example is the provision of the expressly pleaded material fact of a 'Credit Card Contract/Agreement' in the Plaintiff's **ASOC** and its credit insurance contract. Mr Ammer in correspondence refers me to Adam Carpenter's (employee of Credit Corp Services), affidavit Exhibit documents, which are non-contractual documents, and not pursuant to legislation.

<sup>389</sup> Refer to p. 25 of the Assessment Application in **Annexure "A"** and **"A.1"**.

**manipulated attendances** in the **CAA** were created in November 2017<sup>390</sup> and are neither verifiable nor supported by bill of costs/invoices/statements.

**iii. Table of Comparison: Invoices/Statement in Sworn Affidavit of Mr Ammer Against Cost Attendances in CAA.**

286. The table below provides only a few from **many examples of fabricated and manipulated cost attendances** in the Costs Assessment Application filed in the Supreme Court on 9/1/2018. The table provides comparison of the cost particulars in the CAA (**A**) to bills of costs/invoices/statements in exhibit in Mr Ammer’s sworn affidavit dated 15/8/2016 (**B**).

<b>T</b>	<b>(A)</b> <b>Itemised attendances in Invoices/statements (Period 12/12/2014 – 8/8/2016) annexed in Exhibit to the sworn affidavit of Mr Florian Ammer dated 15/8/2016 (See Annexure “B.1”)</b>	<b>(B)</b> <b>Application (CAA) Fabricated and Manipulated Cost attendances, Created in November 2017. (See Annexes “A” &amp; “A.1”)</b>	<b>Details / Particulars</b>
1	The first recorded attendance on 12/12/2014 is by Paralegal/JP, Ms Miller.	The first recorded attendance on 12/12/2014 is by Mr Ammer \ (FA) <sup>391</sup>	There was no recorded attendance on 12/12/2014 by Mr Ammer in ( <b>A</b> ). <sup>392</sup> He adds his extensive attendances in ( <b>B</b> ).
2	Paralegal/JP, Ms Miller charge and attendance on 30/3/2016 records:  <b>‘\$1,875’ for ‘Court Attendance on Hearing of Amendment Application’</b>	Paralegal/JP, Ms Miller attendance and charge on 30/3/2016 records:  <b>‘385 30 [March 2016] Attending conference with Counsel after today’s hearing discussing preparation of evidence to further amended defence... [\$] 250.00’</b>	Ms Miller’s attendance in ( <b>A</b> ) where she appeared in court, sat alone at the bar table with Counsel instructing him without leave from court and charging \$1,875 is changed in ( <b>B</b> ) to <b>‘Attending conference’</b> and her charge changed to <b>‘\$250.00’</b> .  Ms Miller’s court attendance on 30/3/2016 is also omitted in the Assessment Application ‘Introduction’ chronology in ( <b>B</b> ). <sup>393</sup>
3	Paralegal/JP, Ms Miller attendance on the final two day hearing 18/7/2016 and 19/7/2016 records on both dates:  <b>‘Prepare for and attend to instruct at hearing (day 1 and 2)’<sup>394</sup></b>	Paralegal/JP, Ms Miller attendance on the final two day hearing 18/7/2016 and 19/7/2016 records on both dates:  <b>‘Attending conference with Counsel and hearing before Magistrate Freund...’<sup>395</sup></b>	Ms Miller’s role of a person impersonating an instructing solicitor in ( <b>A</b> ) where she appeared in court, sat alone at the bar table with Counsel is changed in ( <b>B</b> ), downgrading her role to simply ‘attending’, but still charging for it \$2,175 each day. Ms Miller’s court appearances on 18 & 19 July 2016 are omitted in the ‘Introduction’ chronology in ( <b>B</b> ) at page 17.

<sup>390</sup> Commencing from page 25 of Assessment Application in **Annexure “A”** and **“A.1”**.

<sup>391</sup> Refer to p. 25 of the **CAA** in **Annexes “A”** and **“A.1”**.

<sup>392</sup> Piper Alderman Invoice dated 19/12/2016 p. 1. in **Annexure “B.1”**.

<sup>393</sup> Refer to p.17 of the **CAA** in **Annexes “A”** and **“A.1”**.

<sup>394</sup> Piper Alderman Invoice dated 8/8/2016 p. 6. in **Annexure “B.1”**.

<sup>395</sup> Refer to p. 130 dated 18/7/2016, in the **CAA** in **Annexes “A”** and **“A.1”**.

4	Mr Ammer attendance and charge on 18/7/2016: <b>'Court appearance with Counsel (full day) (8 hours including conferences with counsel. Value [\$] 2,250.00'</b>	Mr Ammer attendance and charge on 18/7/2016: <b>'Attending conferences with counsel and hearing before Magistrate Freund - 4.5 (of 8) hours claimed (FA) 2,250.00'</b>	Both statements in <b>(A)</b> and <b>(B)</b> are misleading and constitute gross overcharging. Mr Ammer sat for both final hearing days (18-19 July 2016) as a spectator with his legal team at the back of the courtroom.  Mr Ammer was not instructing and was not doing any legal work. The charges are false and constitute double-charging. Ms Miller was the one who sat at the bar table for two days of the hearing without leave of court while impersonating a legal practitioner.  Please note - Magistrate Freund's Judgment dated 16 August 2016 on its front page records Ms Anne Freeman, as Plaintiff's <b>'Instructing solicitor'</b> while it should be paralegal Ms Natalie Miller.  Piper Alderman never attended to request court to correct it.  The only correct attendance as to who was an instructing solicitor on 18-19 July 2016 for the Plaintiff is recorded in Natalie Miller's attendance for 18-19 July 2016 in Piper Alderman invoice No 378055 <b>(A)(No.3) (above)</b> .
5	Mr Ammer attendance on 19/7/2016: <b>'Attending to preparation for day 2 of hearing and attending at hearing (including reviewing, amending and settling written submissions, preparation of material for cross examination of defendant and emails with counsel and client) (7:30am - 4:30pm) (9 hours, say 4.5 hours) [\$]2,250.00'</b>	Mr Ammer attendance on 19/7/2016: <b>'Attending court for day 2 of hearing before Magistrate Freund; preparing material for cross-examination of the plaintiff, assisting counsel to draft and settle closing submissions (7,160 words/17 pages) - 4.5 (of 9) hours claimed (FA) [\$] 2,250.00'</b>	Both statements in <b>(A)</b> and <b>(B)</b> are misleading and constitute gross overcharging.  Refer to the 18 July 2016 attendance by Mr Ammer <b>(above)</b> .
6	Solicitor, Mr Mennilli attendance on 6/1/2015 records: <b>'...failure to promptly respond to request for particulars.'</b>	There is no recorded attendance by Solicitor, Mr Mennilli on 6/1/2015.	Mr Minnelli's attendance in <b>(A)</b> is deleted in <b>(B)</b> .
7	Solicitor, Mr Mennilli attendance on 21/8/2015 records: <b>'...dismissal of CIO complaint...'</b> <sup>396</sup>  Note: The said attendance is recorded in the invoice No 361623 issued on 30/9/2015, not under the invoice No 359868 issued on 26/8/2015. Not under the invoice No 359868 issued on 26/8/2015.	There is no recorded attendance for Solicitor, Mr Mennilli attendance on 21/8/2015. <sup>397</sup>	Mr Mennilli's attendance in <b>(A)</b> is deleted in <b>(B)</b> . This event is of significance noting that at the time, the Plaintiff, Credit Corp, and its lawyers represented to the court <sup>398</sup> and me, that they did not have any involvement in the CIO EDR process.

<sup>396</sup> Piper Alderman invoice dated 30/9/2015 in **Annexure "B.1"**

<sup>397</sup> Refer to invoice dated 30/9/2015 page 1. in **Annexure "B.1"**; Mr Mennilli's attendance on 21/8/2016 was not recorded in the invoice issued 26/8/2015. The issue of when CIO complaint was closed was an issue. Mr Mennilli did not disclose that he was aware that it was closed when asked at court on 25/8/2015.

<sup>398</sup> Representations to court on 29/9/2015, 27/10/2015 and 30/3/2016 before His Honour Pierce.

8	<p>Piper Alderman in their invoices/statements for the period: 12/12/2014 to 8/8/2016 - there is no reference to and attendances to a 'contract', 'credit contract', 'offer', 'Letter of offer', 'insurance contract'.</p>	<p>Mr Ammer now records attendances referring to 'Letter of Offer'/'Offer'<sup>399</sup></p>	<p>I put to the attention of Credit Corp and its lawyers in my evidence that Letter of Offer/Offer as the essential contract document was never addressed nor produced by the Plaintiff. The 'Letter of offer/Offer' is the credit contract, which the bank's general brochure refers to. According to s.15 of the <i>Consumer Credit Code</i> (s.17 of the <i>National Credit Code</i> is equivalent of s.15 of the <i>CCC</i>), The Offer is supposed to provide the particulars of the product - credit card: credit provider's name, credit card amount, interest rates, fees, charges, dates, statement of account, default rate, enforcement terms and conditions that apply to the product. In addition to the contract, there is required 'Fees and charges booklet' and the general 'Terms and conditions', however 'Fees and charges booklet', and the general 'Terms and conditions' can only operate pursuant to the 'Letter of Offer/Offer' Reliance on the essential contract 'Letter of Offer/Offer' is stated in bold at the top, first page of the 'Terms and conditions' booklet.  <b>Credit contract (The 'Letter of Offer/Offer') does not exist, was never admitted in evidence and this critical issue was never ventilated at the final hearing.</b></p>
9	<p>Piper Alderman's employee/ Legal Practitioners recorded in the case:  1. Natalie Louise Miller (Paralegal/Justice of Peace);  2. Florian Ammer (Partner);  3. Anne Elizabeth Freeman (Partner/Solicitor on Record);  4. Matthew Mennilli (Solicitor-Supervised);  5. Owen Timothy Daniel Nanlohy (Law Clerk/Solicitor admitted 11/12/17);  6. Hannah Sue Veldre (Solicitor -Supervised);  7. Brendan May (Solicitor-Supervised);  8. Malcolm Mervyn Quirey (Solicitor -Supervised);  9. Stefano Andrea Calabretta (Solicitor-Supervised)  10. Katherine Silvers (Law Clerk)</p>	<p>Piper Alderman's employee/ Legal Practitioners recorded in the case (page 24 of the Application)  1. Florian Ammer (Partner);  2. Malcolm Quirey (Solicitor -Supervised);  3. Matthew Mennilli (Solicitor-Supervised);  4. Brendan May (Solicitor-Supervised);  5. Graduate [NO DETAILS PROVIDED]  7 Law Clerk [NO DETAILS PROVIDED]</p>	<p>There have been omitted/deleted attendances from <b>(A)</b> in <b>(B)</b> of the staff that worked in this matter.</p> <p>In <b>(B)</b> there is no true reflection of the numerous staff on this case which also involved external practitioners from Certus Partners, Banks employees and legal practitioners from Westpac and St George Bank and CIO lawyers. (CIO materials were tendered in the court against CIO rules/guidelines, and in complete disregard of Mr Mennilli's sworn affidavit dated 27/20/2015 witnessed by Mr Ammer of the CIO confidentiality)</p>
10	<p>Page 3 of the affidavit:  <b>'Total Amount of:</b>  <b>1. Professional Costs (before GST): \$142,745.00</b>  <b>2. Disbursements: (before GST) \$51,439.70'</b></p> <p>Page 5 of the affidavit:  <b>'13. I estimate that further costs of \$2,200 (inclusive of GST) will be incurred in relation to attending at the final listing on this matter, at which Judgment will be given and the issues of costs will be determined by the Court...'</b></p>	<p>Page 150 of the Assessment Application:  <b>'Total Professional Costs Part A \$141,876.50.'</b>  <b>Disbursements: \$52,337.67'</b></p> <p>Further down page 150:  <b>'Add Disbursements: Page 147 \$13,750.00'</b></p>	<p>Not only multiple attendances in Piper Alderman invoices do not match falsified attendances, but <b>Professional fees and Disbursements amounts claimed are different as well</b>, even though the person(s) who was/were creating falsified records in the Assessment Application tried to do their best to match the amounts.</p> <p>Further, the Disbursement amount of \$13,750.00 at page 150 of <b>(B)</b> is explained/particularised at the page 147 of <b>(B)</b> as:  <b>'969 27.11.17 DSA Legal Cost Consultants Pty Ltd - preparation of application for assessment \$13,750.00'.</b></p> <p><b>Disbursement of \$13,750.00 is a falsified charge/entry as no other company other than Piper Alderman (partners Mr Ammer Ms Freeman and their staff members listed above) would know what entries in Piper Alderman tax invoices needed to be modified/added/deleted</b></p>

<sup>399</sup> For the first time in this matter, Piper Alderman/Mr Ammer refers and records 'Offer'/'Letter of offer'. Refer to in **CAA**; This is to mislead that there was an 'Offer'/'Letter of offer' (pursuant to credit laws), which did not exist in this case.

			<b>for the purpose of submission an Assessment Application. No invoice from DSA Legal Cost Consultants Pty Ltd was provided in the Assessment Application either to support this disbursement charge.</b>
11	Page 5 of the affidavit: <b>'13.2 \$1,100 in Piper Alderman fees for three hours of time for Natalie Miller, a Paralegal under my supervision, to prepare for and instruct at the final listing (\$250.00 x 4 + GST of 10%).'</b>	Page 135: <b>'856 16 [August 2016] Attending court to hear judgment - 1 hour 12 minutes (paralegal)'</b>  Page 136: <b>'866 29 [August 2016] Attending conference with counsel and hearing on costs before Magistrate Freund - 2 hours 18 minutes (paralegal)'</b>	Note that in <b>(A)</b> Mr Ammer states that Ms Miller attends the court to <b>"instruct at the final listing"</b> . Paralegal Ms Miller sat at the bar table without leave of court and instructed Plaintiff's counsels impersonating instructing solicitor during: <ol style="list-style-type: none"> <li>1. 17/12/2015 - notice of motion hearing;</li> <li>2. 30/3/2016 - interlocutory hearing for Further amended defence;</li> <li>3. 18/7/2016 - final hearing day 1;</li> <li>4. 19/7/2016 - final hearing day 2;</li> <li>5. 16/8/2016 - judgment;</li> <li>6. 29/8/2016 - cost argument;</li> <li>7. 2/9/2016 - cost orders day.</li> </ol> Note that Piper Alderman removes Ms Miller's role of 'instructing solicitor' in <b>(B)</b> . She no longer <b>"instructs"</b> , but she rather just <b>"attends"</b> hearings - as if she sits in the back of the courtroom, while she actually sits the bar table on all occasions.
12	No invoices/bill of costs to verify.	Mr Ammer attendance on 27/11/2017 recorded on page 141 entries from <b>'890' to '900'</b> .	Mr Ammer's falsified entries in <b>(B)</b> refer to the attendances which never happened and Mr Ammer charges for them, for example: <b>'Letter to client enclosing certificate of determination - 6 minutes (FA) Reading and considering letter from defendant enclosing payment of costs - 6 minutes (FA)'</b> .
13	GST component	GST component removed	As the documents have been manipulated and falsified and total costs amounts are now different, the GST component cannot possibly be calculated as true and accurate and cannot be verified, which means that ATO has been supplied with unreliable information. All accounting/financial documents provided to me are under question of their integrity and authenticity.

Piper Alderman **never expressly refer to the credit card contract, contract, insurance contract, credit card insurance contract in its itemised cost attendances/invoices** in exhibits of the Affidavit of Mr Ammer's affidavit sworn 15/8/2016.

Row Table 2 & Table 3 above:

- (a) Plaintiff's Counsel, Mr Hartford Davis, in court on 30 March, 18 and 19 July 2016, wilfully misled the court by referring to Ms Miller as his 'instructing solicitor' before the court.<sup>400</sup>
- (b) In the Affidavit of Mr Ammer sworn on 15/8/2016, Mr Ammer justifies Ms Miller's court appearances with counsel at the bar table and to instruct at court, that he gave Ms Miller authority<sup>401</sup> to appear with Junior barrister, Mr Hartford-Davis, a former employee of Piper Alderman.

<sup>400</sup> (a) Examples: Para 25, Page 60 in Court Transcript 30/3/2016, '*...my instructing solicitor asked to be excused so that she can attend....*' and Para 30, Page 104 in Court Transcript 19/7/2016, '*...I ask my instructing solicitor to give me a fresh piece of paper....*' Ms Miller sits alone with Counsel at the bar table. Court Transcripts are available upon requests; (b) invoice dated 31/3/2016 page 9 in **Annexure "B.1"**.

<sup>401</sup> Affidavit of Mr Florian Ammer sworn 15/8/2016, Para 13.2, p. 5. **Annexure "B.1"**. Mr Ammer asserts that such conduct is acceptable and standard practice, if 'authority' is given by a partner of his firm.

Row Table 5 above:

- (a) Mr Mennilli's recorded attendance on 21/8/2015<sup>402</sup> shows that the Plaintiff gave notice to Piper Alderman of the 'CIO dismissal' of my complaint. Mr Mennilli recorded an attendance on 21/8/2015 that he was aware of the '*dismissal of CIO complaint lodged by Marie Odtojan*'. Mr Mennilli failed to disclose this when he was asked at court, on 25/8/2015, of the status of the **CIO** EDR process<sup>403</sup>. This was in dispute and before the court on 29/9/2015 and 27/10/2015. Piper Alderman lodged a complaint to the **OLSC/NSW\_PSB**. (Piper Alderman misled the **OLSC/NSW\_PSB** that Mr Quirey 'obo Mr Ammer' wrote letters from Piper Alderman signed by Mr Malcolm Quirey. On review of Piper Alderman's invoices, it was Mr Mennilli who was attending to drafting those letters of complaint to OLSC/NSW\_LSB and was charging his client Credit Corp for such tasks. Mr Mennilli had a self-serving interest to make such complaint against me as I had given notice to Piper Alderman/Credit Corp about his conduct at court on 29/9/2015 and 27/10/2015. Mr Malcolm Quirey and Mr Mennilli were misleading **OLSC/NSW\_PSB** and me as to the writer of Piper Alderman's letters in the complaint, (Ref. No.42049) to the **OLSC/NSW\_PSB**.
- (b) I believe that Piper Alderman, Mr Ammer with his team Mr Mennilli, Ms Miller and others in his team attempted to manipulate their attendances on account records in their firm's accounting software to edit/delete the entries such as the recording on 21/8/2015. **The Assessment Application gave them the opportunity to recreate and fabricate what transpired in the court proceedings in 2014-2016 and at the final court hearing on 18-19 July 2016, in respect of the chronology and the particularised attendances.**

287. Piper Alderman/Partner, Mr Ammer, asserted in his submission dated 27/4/2018 in the Assessment of Cost process, justifying the gross costs of Piper Alderman/Credit Corp stating that the signature issue on a photocopied unoriginal card collection form<sup>404</sup> was effectively **material to prove their case - their claim**. Such statement is contrary to the: (i) pleaded cause of action in the **ASOC** - credit card contract; (ii) Credit laws and (iii) Credit Corp/Plaintiff own summary of the case filed in court on 21/6/16 - where no such issue was even mentioned.

#### **iv Integrity and Authenticity of Financial Documents /Particularised attendances.**

288. The data provided to me in the Assessment Application cannot be verified nor supported by any invoices/statements. The cost attendances are **fabricated, manipulated, elaborated, modified and/or created in November 2017**<sup>405</sup> and they are contrary to the invoices/statements in the **Affidavit of Mr Ammer**.

289. Piper Alderman/Mr Ammer, fully aware that Piper Alderman law clerk Mr Nanlohy was impersonating barrister Mr Willis at court on 16/8/2016, provided fabricated cost attendances in the **CAA** recording barrister, James Willis attendance at court on 16/8/2016<sup>406</sup>. Before Court on 29/8/2016 Mr Willis confirmed he was not in court on 16/8/2016.<sup>407</sup> It is noted that Mr Ammer was present in court on 16/8/2016, sat at the back of the courtroom and observed Mr Nanlohy impersonating barrister Mr Willis with magistrate Freund referring to Mr Nanlohy as 'Mr Willis', yet, Mr Ammer, with the gross dishonesty and intention to mislead records barrister's charges in the **CAA**<sup>408</sup>.

290. No bill of costs/invoices was ever provided in the Costs Assessment process to verify any charges. The issue of falsified cost attendances in the **CCA** was put to the Cost Assessor Mr

<sup>402</sup> As Above (22)

<sup>403</sup> Refer to chronology in my affidavit sworn 16/12/2015. Available upon request.

<sup>404</sup> The expert report result in respect to the signature on the "card collection form" was 'inconclusive. The onus to prove fraud is on the person making the allegation. Fraud was not pleaded.

<sup>405</sup> As indicated in the Assessment Application's chronology.

<sup>406</sup> See recorded fee by barrister James Willis in **CAA in Annexure "A.2"**. Despite giving notice to Mr Rosier and Piper Alderman that Mr Nanlohy appeared before court on 16/8/2016, impersonating Mr Willis, the issue was not addressed. There is no supporting tax invoice to support the fees charges by James Willis.

<sup>407</sup> Court Transcript on 29/8/2016 available upon request; See in this report: (i) '*Owen Nanlohy- Impersonation of a Legal Practitioner*' on page 82 (ii) '*Presiding Magistrate...*' on Para 67(e) on page 27 in this report.

<sup>408</sup> Page 143 of the CAA filed 9/1/2018. Cost attendances under "Counsel's Fees - James Willis" N 924, 925, 926 for the dates, respectively, 15/08/16, 16/08/16, 17/08/16.

Rosier on multiple occasions. Yet, Mr Rosier asked no questions from Piper Alderman/Mr Ammer. The issue of Mr Nanlohy impersonating Mr Willis at court was also put to Mr Rosier in my letter to him dated 18 April 2018 (Para 12). Mr Rosier ignored my letters and did not ask any questions from Piper Alderman/Mr Ammer. On 10 May Mr Rosier closed the matter and issued his determination.

**(a) Determination based on falsified cost attendances/particulars in CAA.**

291. On 28 May 2018 I received the determination of Mr Peter Rosier who determined costs based on falsified costs attendances in the **CAA** filed by Piper Alderman/Mr Ammer with no reference to any documents verifying costs and Court Transcripts. Despite exhaustive notices of issues put to Mr Rosier, Piper Alderman, and Manager Cost Assessments Mr Bellach from the outset as early as 19/12/2017, the issues of falsified cost attendances were never addressed. (Refer to **Annexure "D"** and see report on P.W.Rosier to **OLSC** No.54563).
292. Notices of issues were given to Mr Rosier and Piper Alderman of the fabricated cost attendances in the **CAA**, including obtaining judgment and indemnity costs by unlawful means through collusion and fraud, perverting the course of justice, impersonation of legal practitioner by the paralegal and the law clerk, and objection to Mr Rosier being the Cost Assessor based on prior conduct of assessments he conducted on my purported legal representatives.<sup>409</sup>
293. Notwithstanding the serious issues put to Mr Rosier, he sought no clarification from me. No questions were put to Piper Alderman. Piper Alderman remained silent on the matters. Mr Rosier refused to enquire, to ask for production of the bill of costs/invoices/statements in Exhibits in Mr Ammer's affidavit sworn 15/8/2016<sup>410</sup>.
294. Mr Rosier made a determination in haste, based on falsified documents where such costs cannot be verified<sup>411</sup> and gave opinionated determinations on matters not put to Piper Alderman nor addressed by Piper Alderman. Mr Rosier made representations on behalf of Piper Alderman without reference to any document or court transcript to support such determinations.
295. Throughout the Costs Assessment process, since December 2019, multiple notices of the falsified cost particulars/documents in the filed **CAA** among other issues were given to Piper Alderman, Costs Manager/Registrar Brendan Bellach, Principal Registrar D'Aeth, Costs Assessor Mr Rosier, head of Costs Committee Judge Brereton and Chief Justice Bathurst.
296. The above-mentioned parties were all on notice of the issues including the issues of Mr Rosier's assignment as the cost assessor, (based on my previous dealings with him in the assessments of applications against Mr Glynn and Mr Ford.<sup>412</sup> I had reasonable grounds to believe that Mr Rosier had a vested interest in this matter to assist Piper Alderman/Mr Ammer/Mr Ford and Mr Glynn to cover up their improprieties and their criminal conduct of the main proceedings and to hinder investigations on the matter.
297. Mr Rosier's determination, granting Piper Alderman costs of a quarter of a million without any questions despite the issues raised and his acceptance of fraudulent documents filed in the **CAA** confirms he has a role to assist the fraudulent acts of Piper Alderman and my purported legal

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<sup>409</sup> Refer to the report on P.W.Rosier to OLSC (Ref.No.54563); Mr Rosier accepted fraudulent account statements. Mr Ford wilfully recorded me as the 'instructing solicitor' on his statement where it is Mr Glynn and recorded payments such as cheque payment from my firm when he received payment from Mr Glynn's trust account. Mr Glynn is not recorded in his account statement. Mr Rosier asked no questions from Mr Ford throughout his assessment on the matter. He held onto Mr Ford and Mr Glynn's assessments against them for 5 months.

<sup>410</sup> See correspondences in **Annexure "D"**.

<sup>411</sup> Over \$230,000 in costs on a consumer type credit matter \$40,000 claim.

<sup>412</sup> Mr Rosier did costs assessment of Mr Glynn and Mr Ford and made no enquiries/did not put any questions to my purported legal representatives despite having received documents from me that they gave false evidence at the bar table, filed forged documents, breached trust account obligations and multiple provisions of *the LPUL*.



representatives, Mr Ford and Mr Glynn<sup>413</sup>. **I submit the need to investigate Mr Rosier in connection with Piper Alderman, Mr Ford and Mr Glynn.**<sup>414</sup>

298. Despite my notices to the Costs Manager Mr Bellach, Principal Registrar D'Aeth, Judge Brereton and Chief Justice Bathurst about Mr Rosier's conflict of interest in the matter, no action was taken<sup>415</sup> to assign an independent Cost Assessor.

**(b) Fabrication of Documents.**

299. It is of grave concern that Piper Alderman and its client manage financial matters as usual business practice when they deliberately tamper and manipulate accounts/business documents in complete disregard of obligations, statutory legislation and regulations:<sup>416</sup>

- I. Cost Attendances and disbursements in the **CAA** are unverifiable - not supported by bill of costs/invoices/statements;
- II. The charge from '*DSA Legal Cost Consulting Pty Ltd*' that is recorded for an amount of \$13,750 for work in preparing the CAA<sup>417</sup> cannot be verified by any invoices/bill. Such gross costs cannot be justified noting the Assessment Application is deficient, incomplete and contains unverifiable **manipulated attendances**.<sup>418</sup> Mr Ammer's sworn affidavit dated 15/8/2016 had already contained substantial cost documents up to the period of 8/8/2016. Incurring \$13,750 to retype and recreate a chronology with the aim to **falsify and manipulate costs attendances and defraud is a fraudulent act and an criminal offence**<sup>419</sup>;
- III. The **manipulated attendances** indicate that Mr Ammer and his team were actively involved in the preparation of the Costs Assessment Application as significant attendances which were either added, deleted, and/or modified could only have been made by someone with the knowledge of the events which transpired in the court proceedings, where I raised repeated notices which were ignored or circumvented by Credit Corp/Piper Alderman.<sup>420</sup>
- IV. Part C of the **CAA**<sup>421</sup> Mr Ammer, records his attendances on 27/11/2016 in relation to the assessment, Costs Assessor and the outcome of assessment, stating: '**...considering certificate of determination...**' and '**...letter to client with cheque for costs...**' Mr Ammer anticipates the outcome and charges for events that has not occurred with **full knowledge that he filed CAA with fabricated, falsified and manipulated cost attendances to the Supreme Court;**
- V. From page 148 to 150 of the **CAA**, the totals of manipulated attendances are tallied per page not verified by invoices/statements<sup>422</sup>;
- VI. By falsifying company/financial documents and supplying them to me and to the Supreme Court for cost assessment, Piper Alderman/Mr Ammer are in **breach of legislation,**

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<sup>413</sup> I discovered that Mr Thomas Glynn of Glynn's Lawyers had been reprimanded for breaches of his Trust Account obligations on 21/6/2018 via the OLSC Register of Disciplinary Action. (Mr Rosier was the cost assessor for the assessment application I filed against Mr Glynn where I raised issues on Mr Glynn's Trust accounts and tax invoices which were disregarded by Mr Rosier, who determined the matter as 'out of time' based on the incorrect tax invoice dated 27/7/2016 with incorrect trust amount and amount due).

<sup>414</sup> See **OLSC** report on MR Rosier (No.54563).

<sup>415</sup> Refer to report on P.W.Rosier to OLSC (Ref.No.54563).

<sup>416</sup> Breaches of provisions in the *ASIC Act* and *The Corporations Act 2001 (Cth)*.

<sup>417</sup> Based on the chronology of the assessment application and the comparison rate of \$350 an hour, DSA Cost Consulting would have to work 40 hours to incur an amount of \$13,750 in costs to produce the deficient 160 pages of the Assessment Application containing falsified cost attendances. DSA could not be contacted, the office number was disconnected. It was discovered that it operated at a home unit and did not have business activity on its ABN for 4 years.

<sup>418</sup> This is an example Piper Alderman and its Partner, Mr Ammer, having reckless disregard and consideration of costs. A consistent behaviour by Mr Ammer.

<sup>419</sup> Fraudulent act under *the ASIC Act* and *Corporation Act*, forgery under s.253 of *Crimes Act 1900*.

<sup>420</sup> Refer to the table of comparisons on p.91 in this report.

<sup>421</sup> Page 141 of the Assessment Application.

<sup>422</sup> I believe this is to frustrate the process of reviewing the costs and make it difficult to refer to a source of such data. The conduct by Piper Alderman prejudices the person reviewing/objecting to this application. It is incomplete and has no references to any accounting document (invoice/statement/receipts).

**accounting obligations, regulations and duties of a law firm/partner of law firm;**<sup>423</sup>

- VII. On page 139 of the Assessment Application.
- a. The matter was referred back to Certus Partners (incorporated legal firm of Credit Corp). In accordance to the chronology in the **CAA**, the last attendance recorded by Piper Alderman was in February 2017;
  - b. The attendance by Mr Ammer on 22/9/2017 is significant noting the timing as follows:
    - i. Piper Alderman was not in charge of the matter at the time. Shortly after February 2017, Certus Partners filed notice of appearance for the matter;
    - ii. Between the end of July to September 2017, I lodged three cost assessment applications on my purported legal representatives, Mr Ford, Mr Glynn and Mr Condon, after uncovering serious matters concerning their conduct in my matter;<sup>424</sup>
    - iii. On or around 20 September 2017, at the time Mr Condon would have received the assessment application filed against him, Mr Condon inappropriately obtained my mother's phone number and called her office, leaving a voice-message stating words to the effect: *'This is Miles Condon. Call me back'*;
    - iv. On 22/9/2017, Mr Ammer seeks instructions from Credit Corp employees, Mr Adam Carpenter<sup>425</sup>, ("Mr Carpenter"), and Mr Steven Healey, ("Mr Healey"), recording in the **CAA** his attendance of his email to Credit Corp: ***'with advice on recovery of costs, recommending proceed to assessment, requesting instructions...'***<sup>426</sup>.
    - v. Mr Ammer does not contact Certus Partners, in charge of the matter on 22/9/2017<sup>427</sup>;
    - vi. The action of Mr Ammer to directly contact Credit Corp to *'request instructions'* and take action in this matter when his firm does not have carriage of the matter and at the time I filed a cost assessment application against my purported legal representatives. Mr Ammer attendances show activity which demonstrates that there is a vested interest for Mr Ammer to attend to this matter noting the conduct committed in the proceedings<sup>428</sup>
- VIII. On 19 December 2017 a letter was forwarded to Piper Alderman giving notice of the serious issues to their **CAA** served on me<sup>429</sup>;
- IX. On 22/12/2017, I replied to Mr Ammer's offer<sup>430</sup> made after giving me four copies/two versions of a **deficient and fraudulent** documents in the **CAA**.<sup>431</sup>

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<sup>423</sup> *The ASIC Act 2001, Corporations Act 2001, Crimes Act 1900.*

<sup>424</sup> Legal Practitioners: Mr Nicolas George Ford (Barrister of Edmund Barton Chambers), Mr Thomas Patrick Glynn (Principal Solicitor of Glynn's Lawyers) and Mr Miles Kevin Condon (Senior Counsel of New Chambers). All three legal practitioners aligned their actions to Piper Alderman and its client. Submissions will be lodged to the OLSC on each practitioner.

<sup>425</sup> Mr Carpenter, employee of Credit Corp, was substantially involved in the matter. Participated in the CIO EDR process, gave affidavit evidence and evidence under oath, committing perjury while under cross-examination on 18/7/2016.

<sup>426</sup> Refer to p. 139 in the itemised attendances dated 22/9/2017 in the Assessment Application in **Annexure "A"** and **"A.1"**.

<sup>427</sup> Piper Alderman filed 'Notice of change of solicitor' on 29/11/2017.

<sup>428</sup> Piper Alderman/Mr Ammer filed a notice of appearance at court dated 29/11/2017.

<sup>429</sup> Refer to letter dated 19/12/2017 in **Annexure "C"**.

<sup>430</sup> This is a consistent behaviour of Piper Alderman where an offer is made when they are fully aware that the opposing party is prejudiced without relevant and proper documents/particulars. This was the same case on 17/12/2014 when they made an offer in full knowledge of my requests for the contract, which were ignored. The offer was a disingenuous offer, Piper Alderman/Mr Ammer had full knowledge that I did not have the credit card contract and a Request for further and better particulars was served on the Plaintiff's lawyers on 5/11/2014. The offer was only made to trigger costs.

<sup>431</sup> Refer to letter dated 22/12/2017 in **Annexure "D"**. A consistent behaviour to make an offer where I am clearly prejudiced with no material documents and fully aware no contract documents were provided.

## v. The A3 Form Assessment Application Filed to Supreme Court on 9/1/2018

300. In my letter 19/12/2017 I gave notice of my objection based on serious issues with the Assessment Application<sup>432</sup>, to Piper Alderman, its partners, Mr Ammer and Ms Anne Freeman ("Ms Freeman") and solicitor Ms Hannah Veldre ("Ms Veldre"). Piper Alderman did not respond to my said letter.
301. On 30/1/2018 I received from the Supreme Court a copy of the filed Form A3 Assessment Application, **CAA**. On review of the said filed Application, I noted the following:
- i. The filed version of the Application is not the four copies/two versions of the Assessment Applications I was served by Piper Alderman between 28/11/2017 - 2/12/2017;
  - ii. Piper Alderman/Mr Ammer only completed the A3 Form dated 8/1/2018 and filed the said Application on 9/1/2018, after receiving my letter dated 19/12/2017 and after the 21 day prescribed period to respond;
  - iii. The filed Application contains falsified and manipulated attendances not verifiable by Bill of costs/invoices/statements and no such documents are attached in the Assessment Application;
  - iv. The said filed Application contains itemised cost attendances that do not correspond to the itemised attendances/invoices/statements in the Exhibits of the Affidavit of Mr Ammer sworn 15/8/2016, not attached in the filed Application.<sup>433</sup>
  - v. Piper Alderman/Mr Ammer incorrectly categorise these proceedings as a 'commercial matter'. This matter is a '**credit card contract**' case pursuant to strict legislative requirements – it is a consumer, credit law matter;

## vi. Assigned Assessor

302. The appointed/assigned Cost Assessor on the said filed **CAA** initially was Mr Michael Eagle, Director of Edmund Barton Chambers, from the same **chamber of Mr Nicolas Ford**. A letter dated 5/2/2018 was forwarded to Manager, Costs Assessment giving notice of the issues and objection to the Cost Assessor (being from the same chamber as Mr Ford)<sup>434</sup>.
303. The matter was reassigned to Peter Rosier as the Cost Assessor, the same Assessor on **Mr Nicolas Ford**. The original assessor on Mr Ford was shortly withdrawn after raising questions of concern and seeking answers from Mr Ford.
304. Mr Bellach reassigned Mr Rosier on the matter of Mr Ford. **Mr Rosier did not ask any questions from Mr Ford of the serious issues of the conduct on the proceedings, fraudulent documents submitted at court, false evidence by Mr Ford given at the bar table and fraudulent recordings on Mr Ford's account statements, amongst other issues**<sup>435</sup>.

See correspondences to date **Annexure "D"** and Submissions of Piper Alderman/Mr Ammer dated 27/4/18 in **Annexure "D.1"**.

<sup>432</sup> Refer to letter dated 19/12/2017 **Annexure "D"**.

<sup>433</sup> **Annexure "B"** (Affidavit of Mr Ammer sworn 15/8/2016) and **Annexure "B.1"** (Exhibit **Tab 1** Bill of costs/invoices of the said Mr Ammer's affidavit).

<sup>434</sup> Refer to Letter dated 5/2/2018 to the Supreme Court - Cost Manager in **Annexure "D"**.

<sup>435</sup> Refer to report on Mr P.W.Rosier to the OLSC Ref No.53563.

## E. CONCLUSION

305. Credit Corp through its lawyers, Piper Alderman, Certus Partners<sup>436</sup>, its Counsel<sup>437</sup>, my purported legal representatives<sup>438</sup> obtained judgment, (approx. \$40,000) and the Costs Judgment (in an excess of a quarter a million dollars), **by unlawful means through fraud and collusion, perverting the administration and the course of justice, violating my human rights for a fair and adversarial hearing.**
306. **The claim of the credit card contract was a false claim as no such credit card contract exists and the real issues were suppressed through the collusion of the lawyers: Piper Alderman and my purported legal representatives.**
307. **This was done with the assistance of Magistrate Freund who made no enquiries or clarification about the pleadings of a credit card contract throughout the entire two-day hearing. The real issues of the case and applicable credit laws were not ventilated at the said final hearing.** The gross miscarriage of justice has progressed and continues to be perpetuated in reliance of the judgment and the cost order obtained by unlawful means.
308. Piper Alderman Lawyers/Partners: Mr Ammer and Ms Freeman consistently demonstrated, throughout this matter, their wilful intention through their solicitors and employees to:
- (i) Act in gross dishonesty, to mislead and deceive the court and other parties;
  - (ii) Disregard and disrespect the law, regulations, the rules and procedures of the court;
  - (iii) Discard their legal obligations, including their paramount duties as court officers;
  - (iv) Discard any accountability and responsibilities for their actions;
  - (v) Abuse their position as legal practitioner/court officers and exploit the legal system;
  - (vii) Encourage paralegals and law clerks to impersonate court officers/legal practitioners.
309. Credit Corp's lawyers, Piper Alderman, Certus Partners, its counsels and those who participated, in perpetuating the criminal conduct and the miscarriage of justice, are extremely dangerous to the public. Their conduct brings:
- (a) the legal profession into disrepute and gross dishonour;
  - (b) great loss of public confidence in the legal system and legal profession.
310. With reckless indifference Piper Alderman wilfully abused their position as legal practitioners and court officers, where they have deliberately misled the court, demonstrably made the law and the legal system subservient to their interest and purpose.
- '...The legal practitioners in this case maliciously misled the court, committing the "outrageously dishonorable" act and, as such, deserve a severe disciplinary action'.***<sup>439</sup>
311. This case is pertinent to the current affairs and news highlighting financial misconduct and criminal activity within the finance industry revealed by the Banking Royal Commission, amongst other relevant reports.<sup>440</sup>

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<sup>436</sup> Incorporated legal practice of Credit Corp. Credit Corp Services Pty Ltd is a 'Sophisticated client'.

<sup>437</sup> Sebastian Hartford Davis of Tenth Floor Chambers, ("Mr Hartford Davis") a former employee/solicitor of Piper Alderman before he went to the Bar. Mr Hartford Davis was admitted to the Bar in 2014 with Mr Nicolas George Ford. Submissions will be made to the OLSC in respect to Mr Hartford Davis.

<sup>438</sup> Mr Ford and Mr Glynn. This also involved Senior Counsel Miles Condon of New Chambers, ("Mr Condon"). Submissions will be made on each legal practitioner to the **OLSC**.

<sup>439</sup> See [25:10] Dal Pont G, *Lawyers Professional Responsibility in Australia and New Zealand* (5th ed, Lawbook Co., 2003); *Cases: Re Cooke* (1889) 5 TLR 407 at 408 per Lord Esher MR; *O'Reilly v Law Society of New South Wales* (1988) 24 NSWLR 204 at 230 per Clarke JA; *Kyle v Legal Practitioners Complaints Committee* (1999) 21 WAR 56 at 58 per Ipp J.

### **(a) Conduct of other Court Cases.**

312. Upon research of similar credit contract reported cases conducted by Credit Corp and/or Piper Alderman,<sup>441</sup> I found that they have systemic approach to circumvent strict applicable legislation, withholding the laws, misleading the court and opposing parties and relying on documents, which are not pursuant to the strict credit laws, and dressing them as 'core' document/s pursuant to legislation. In this case the 'card collection form' was presented as the core document, the 'contract' / 'written request'.
313. The behaviour of Piper Alderman adversely impacts the development of credit and consumer law in Australia. The strict credit legislation is wilfully omitted and circumvented by the lawyers. Notice of such issues will be provided to NSW Law Society, to Parliament and applicable organisations.

### **(b) Investigations sought from the Office of Legal Services Commissioner.**

314. I seek that the **OLSC** investigates and takes immediate appropriate actions on the law firm, Piper Alderman and its legal practitioners and all those who knowingly and wilfully perpetrated and perpetuated a systemic miscarriage of justice.
315. For the interest and protection of the public and protection of the legal community:
- (i) That the following legal practitioners be immediately suspended whilst this matter is investigated:
    - (a) The Partners: Florian Samuel Ammer and Anne Elizabeth Freeman; and
    - (b) Solicitors: Matthew Adrian Mennilli, Owen Timothy Daniel Nanlohy, Hannah Sue Veldre, Malcolm Mervyn Quirey, Brendan May and Stefano Andrea Calabretta.

On reasonable grounds and based on this extensive report, **I submit that the above legal practitioners are not fit and proper persons to be engaged in legal practice.**

- (ii) That the law practice, Piper Alderman Lawyers, be refrained from engaging and providing any legal service related to consumer type matters, particularly concerning credit laws/credit contracts dealing with individuals and consumers.

316. Notice was given to Piper Alderman of:

- (i) Law Clerk, Mr Owen Nanlohy (admitted as a solicitor on 11/12/2017) impersonating barrister Mr James Willis at court on 16/8/2016<sup>442</sup>; and
- (ii) Natalie Miller, Paralegal/Justice of the Peace/Law Graduate impersonating a solicitor/ instructing solicitor that of Ms Anne Freeman at court hearings<sup>443</sup>.

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<sup>440</sup> 'Westpac and ANZ hands back millions of dollars to credit card customers' by S.Elsworth at 'The Herald Sun', 7.2.2018. Accessed on 18.3.2018 via <<http://www.heraldsun.com.au/business/companies/westpac-and-anz-hands-back-millions-of-dollars-to-credit-card-customers/news-story/1fa8b374e1fa5283ca3557ea5306d5d1>>

<sup>441</sup> Cases available upon requests.

<sup>442</sup> Piper Alderman presented fees purporting to be charged by Barrister James Willis in the Assessment Application. Such fees could not be verified despite notices of the issues to Mr Rosier, Costs Assessor. Mr Rosier made no enquiries of any kind to Piper Alderman and allowed fees based on fraudulent and manipulated costs recordings in the Application of Costs Assessment filed by Piper Alderman/Mr Ammer. (See **Annexure "A.2"**; Refer to 'Supreme Court Assessment Application' on p.90 in this report).

<sup>443</sup> Refer to p.86 in this report. Further, Mr Rosier in his Cost Assessment determination issued 28/5/18 concluded that "Ms Miller had leave of court" and "no impropriety was committed". Mr Rosier determined this without any enquiries or questions put to Piper Alderman/Mr Ammer. No reference to Court transcripts, which provides that counsel Mr Harford Davis referred to Ms Miller as his "instructing solicitor".

The above conduct of Ms Miller and Mr Nanlohy will be put to the attention of the NSW Law Society, Professional Standards Board.

317. That the **OLSC** exercises all the powers vested in it and on its own initiative, where appropriate, where such conduct is systemic and standard practice of Piper Alderman, to take appropriate course of action to audit Piper Alderman's business records and accounts (trust and general accounts), in consideration of the firm's gross breaches of statutory and regulatory obligations, ethical duties, ADR rules and accounting obligations governed by *the ASIC Act, Corporations Act 2001* (Cth) and other applicable legislation and regulations.
318. That the **OLSC**, on its own initiative, takes action pursuant to breaches identified in this report and any collateral breaches identified by the **OLSC**.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Marie Odtojan', written in a cursive style.

Marie Odtojan  
(Legal Practitioner)