

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 6/12/2020 10:55:59 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)
File Number: VID773/2020
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
ISIGNTHIS LIMITED & ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 7/12/2020 8:45:00 AM AEDT

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

Registrar

Important Information

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

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



Form 17
Rule 8.05

STATEMENT OF CLAIM

No. of 2020

Federal Court of Australia
District Registry: Victoria
Division: General

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

BETWEEN

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

and

ISIGNTHIS LIMITED
(ACN 075 419 715)

First Defendant

NICKOLAS JOHN KARANTZIS

Second Defendant

PARTIES

- 1 The plaintiff (**ASIC**) is a body corporate:
- (a) established by s 7 of the *Australian Securities Commissions Act 1989* (Cth);
 - (b) continued by s 261 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**); and
 - (c) able to sue in its corporate name by reason of s 8 of the ASIC Act.

Filed on behalf of (name & role of party) Australian Securities and Investments Commission, Plaintiff

Prepared by (name of person/lawyer) Andrew Harpur

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(include state and postcode)

- 2 The first defendant (**iSignthis**) is and was at all material times:
- (a) an Australian corporation listed on the financial market known as “ASX” operated by ASX Limited (**ASX**);
 - (b) a “listed disclosing entity” subject to the provisions of the ASX Listing Rules (**Listing Rules**) requiring iSignthis to notify the ASX of “information about specified events or matters as they arise” within the meaning of s 674(1) of the *Corporations Act 2001* (Cth) (**Corporations Act**); and
 - (c) a company carrying on the business of providing, inter alia, transactional banking and card services.
- 3 The second defendant (**Karantzis**) is and was at all material times:
- (a) the Chief Executive Officer and Managing Director of iSignthis;
 - (b) a director and shareholder of a British Virgin Islands company also named iSignthis Ltd (**iSignthis Ltd BVI**); and
 - (c) a director of iSignthis eMoney Ltd (**iSignthis eMoney**).
- 4 iSignthis Ltd BVI is and was at material times:
- (a) a company incorporated in the British Virgin Islands; and
 - (b) controlled by Karantzis.
- 5 Authenticate BV is and was at all material times:
- (a) a company incorporated in the Netherlands;
 - (b) a wholly-owned subsidiary of iSignthis Ltd BV, a company incorporated in the Netherlands and wholly owned by iSignthis.
- 6 iSignthis eMoney is and was at all material times:
- (a) a company incorporated in Cyprus; and
 - (b) a wholly-owned subsidiary of iSignthis.

ACQUISITION AND PERFORMANCE SHARES

7 On 5 March 2015, iSignthis acquired 100% of the shares in two entities, iSignthis BV and ISX IP Ltd, from iSignthis Ltd BVI pursuant to a share sale agreement (the **Acquisition**).

8 The consideration for the Acquisition was shares in iSignthis in four classes:

- (a) 298,333,333 Ordinary Shares;
- (b) 112,222,222 Class A Performance Shares;
- (c) 112,222,222 Class B Performance Shares; and
- (d) 112,222,223 Class C Performance Shares.

Particulars

iSignthis Prospectus 24 December 2014, 13.1.

9 The terms and conditions of the Class A, B and C Performance Shares were as follows:

- (a) each class of Performance Shares would convert on a one for one basis into Ordinary Shares if, before the end of the third full financial year after the Acquisition (30 June 2018), iSignthis achieved revenue targets over a 6 month reporting period, on an annualised basis, being:
 - (i) annual revenue of at least \$5 million for Class A Performance Shares (or \$2.5 million over the relevant 6 month reporting period);
 - (ii) annual revenue of at least \$7.5 million for Class B Performance Shares (or \$3.75 million over the relevant 6 month reporting period); and
 - (iii) annual revenue of at least \$10 million for Class C Performance Shares (or \$5 million over the relevant 6 month reporting period),
 (the **Performance Milestones**);

Particulars

iSignthis Prospectus 24 December 2014, 14.2.

- (b) if iSignthis did not achieve the Performance Milestones before 30 June 2018, all of the Performance Shares would convert into a single Ordinary Share.

Particulars

iSignthis Prospectus 24 December 2014, 14.2.

- 10 In relevant 6 month periods after the Acquisition, iSignthis reported revenue of:
- (a) \$28,962 for the 6 months to 30 June 2015;
 - (b) \$58,537 for the 6 months to 31 December 2015;
 - (c) \$385,344 for the 6 months to 30 June 2016;
 - (d) \$308,189 for the 6 months to 31 December 2016;
 - (e) \$1,063,003 for the 6 months to 30 June 2017;
 - (f) \$826,912 for the 6 months to 31 December 2017;
 - (g) \$5,512,057 for the 6 months to 30 June 2018; and
 - (h) \$1,111,365 for the 6 months to 30 December 2018.
- 11 As a result of the revenue reported in the 6 months to 30 June 2018:
- (a) each of the Performance Milestones were met; and
 - (b) all of the Performance Shares in each of the three classes converted into a total of 336,666,667 Ordinary Shares.
- 12 The 336,666,667 Ordinary Shares were issued and transferred, on Karantzis' direction:
- (a) substantially in accordance with a pre-existing arrangement or understanding (the **pre-existing share arrangement**); and/or
 - (b) as a bonus to directors and executives of iSignthis,
- as follows:
- (c) 149,654,654 to iSignthis Ltd BVI;

- (d) 130,000,000 to Red 5 Solutions Limited (BVI), a company who had as a director and shareholder Andrew Karantzis, Director of Sales Operations at iSignthis and brother of Karantzis;
- (e) 23,615,783 to Icebreak Flow Global Limited, a company whose sole director and shareholder was Todd Richards (**Richards**), the Chief Financial Officer and Company Secretary of iSignthis;
- (f) 15,291,597 to Vastium Holdings Limited, a company whose sole director and shareholder was Timothy Hart, the Chair of iSignthis;
- (g) 10,104,633 to Cili Padi Limited, a company whose sole director and shareholder was Scott Minehane, non-executive director of iSignthis;
- (h) 2,000,000 to Barnaby Ian Robert Egerton-Warburton, non-executive director of iSignthis;
- (i) 2,000,000 to Triple Smile International Limited, a company associated with Christakis Taoushanis, Chair of iSignthis eMoney;
- (j) 2,000,000 to Konstantina Karantzis, Karantzis' mother;
- (k) 500,000 to James Lindsay Cameron, Chief Risk Officer of iSignthis;
- (l) 500,000 to John Hyun-Suk Kim, Chief Engineer of iSignthis;
- (m) 500,000 to Luckystar Group Ltd, a company associated with Or Kapelinsky, the Chief Operating Officer of iSignthis; and
- (n) 500,000 to Dominic Melo, the Chief Product Officer of iSignthis.

Particulars

The pre-existing share arrangement was recorded in a spreadsheet held and maintained by Karantzis and Richards. The parties to whom the shares were transferred, and the numbers of shares transferred, were recorded in a spreadsheet held by iSignthis and provided by iSignthis to ASIC on 25 October 2019.

THE INTEGRATION AGREEMENTS

- 13 During the 6 months to 30 June 2018 (the **Relevant Period**), Authenticate BV entered into agreements for the provision by Authenticate BV of one-off integration and set-up services to new customers (the **integration agreements**).

Particulars

There were three integration agreements, each of which was in writing:

- (1) Service Agreement dated 15 May 2018 between Corp Destination Pty Ltd (**Corp Destination**) and Authenticate BV, and variation dated 7 June 2018;
- (2) Service Agreement dated 30 May 2018 between Fcorp Services Ltd (**Fcorp**) and Authenticate BV;
- (3) Service Agreement dated 6 June 2018 between IMMO Servis Group s.r.o (**IMMO**) and Authenticate BV.

- 14 The integration agreements were signed by Karantzis.

- 15 The integration agreements contained payment terms that:

- (a) in return for performance of all the contracted-for services, the relevant customers would pay Authenticate BV one-off integration and set-up fees of:

- (i) €481,925 under the Corp Destination agreement, as varied (comprising €298,900 under the Corp Destination agreement and €183,025 under the Corp Destination variation);

- (ii) €433,900 under the Fcorp Agreement; and

- (iii) €900,000 under the IMMO Agreement,

totalling €1,815,825 (approximately \$2.8 million);

- (b) of the total fees payable, the relevant customers would pay Authenticate BV up-front fees upon execution of the integration agreements and prior to 30 June 2018 of:

- (i) €242,845 due 22 May 2018 under the Corp Destination agreement;

- (ii) €223,550 due 6 June 2018 under the Fcorp Agreement;

- (iii) €463,200 due 13 June 2018 under the IMMO Agreement; and

- (iv) €183,025 due 14 June 2018 under the Corp Destination variation,
 totalling €1,112,620 (approximately \$1.7 million).

Particulars

- (1) Corp Destination agreement, €242,845 due within 7 days of execution, being 22 May 2018, comprising 85% of fees for: (a) trading platform licence, €270,000; (b) training, €2,500; and (c) 6 months' support, €2,200/month.
- (2) Fcorp agreement, €223,550, comprising:
 - (a) 50% of fees totalling €210,350 due within 7 days of execution, being 6 June 2018, for: (a) trading platform licence, €405,000; (b) training, €2,500; and (c) 6 months' support, €2,200/month; and
 - (b) 100% of fees totalling €13,200 due in advance for: (a) 6 months' maintenance, €2,200/month.
- (3) IMMO agreement, €463,200, comprising (across 2 brands):
 - (a) 50% of fees totalling €436,800 due within 7 days of execution, being 13 June 2018, for: (a) trading platform licence, €421,100 per brand; (b) training, €2,500 per brand; and (c) 6 months' support, €2,200/month per brand; and
 - (b) 100% of fees totalling €26,400 due in advance for: (a) 6 months' maintenance, €2,200/month per brand.
- (4) Corp Destination variation, €183,025 due within 7 days of execution, being 14 June 2018.

- 16 In the fourth quarter to 30 June 2018, Authenticate BV issued invoices in accordance with the integration agreements totalling approximately \$3 million.

Particulars

Authenticate BV issued the following invoices in accordance with the integration agreements totalling €1,905,025 (approximately \$3 million):

- (1) invoice dated 23 May 2018 to Corp Destination (€475,000, including €183,025 payable under the 7 June 2018 variation);
- (2) invoice dated 30 May 2018 to Fcorp (€239,250);
- (3) invoices dated 6 June 2018 to IMMO (€218,400, €218,400, €109,200, €109,200);
- (4) invoices dated 18 June 2018:
 - (a) to Corp Destination (€51,525);
 - (b) to Fcorp (€119,625, €93,225, €26,400);
 - (c) to Immo (€96,000, €96,000, €26,400, €26,400).

- 17 Authenticate BV issued invoices on Karantzis' direction.

Particulars

The invoices referred to in particular (4) to paragraph 16 above were issued on Karantzis' direction by emails to Karolos Shahbenderian, Financial Controller at iSignthis (18 June 2018) and Andrew Karantzis (19 June 2018). Further particulars may be provided.

18 For the Relevant Period, and for the purposes of the preparation and audit of the iSignthis 2018 Annual Report, iSignthis:

- (a) reported to its auditors that all of the integration services required under the integration agreements had been performed before the end of the Relevant Period;

Particulars

- (1) The performance of integration services before the end of the Relevant Period for each integration agreement is recorded in a "Certificate of Practical Completion" dated 25 July 2018 for the Fcorp agreement and IMMO agreement and 14 August 2018 for the Corp Destination agreement.
- (2) The Certificates of Practical Completion were:
 - (a) drafted by Karantzis;
 - (b) signed by the relevant customer upon Karantzis' direction; and
 - (c) provided to iSignthis' auditor for the purposes of auditing the iSignthis 2018 Annual Report.
- (3) In a letter to its auditors dated 28 August 2018, and signed by Karantzis, iSignthis stated: "We are satisfied that the work required under all contracts with customers for the provision of integration, establishment, project and platform services has been satisfactorily completed by the Group at 30 June 2018."

- (b) recognised revenue under the integration agreements totalling approximately \$3 million;

Particulars

- (1) iSignthis recognised revenue on an accruals basis upon Authenticate BV issuing the invoices referred to in paragraph 16.
- (2) On 31 July 2018, iSignthis published a Consolidated Statement of Cash Flows report for the fourth quarter to 30 June 2018 recording unaudited "receipts from customers" in the amount of \$2.633 million.
- (3) From time to time, Karantzis gave directions and instructions to Richards for the purpose of Richards providing information to and responding to questions from iSignthis' auditors regarding the audit of iSignthis' revenue under the integration agreements.
- (4) The iSignthis 2018 Annual Report:
 - (a) stated in respect of revenue for "integration, establishment, project and platform fees" that: "Revenue is recognised once the service is performed. All revenue within this revenue stream has been included within 'contracted service fees' as noted above";
 - (b) recorded revenue for "contracted service fees" in the 2018 financial year as \$5,780,429;

- (c) recorded total revenue for the 2018 financial year as \$6,338,969.
 - (5) In a letter to ASIC dated 27 November 2018, ISX stated that the annual revenue reported as at 30 June 2018 included \$3.6 million in revenue for “integration and platform configuration”, and that “the majority of revenue earned was invoiced in the second half of the year”.
 - (6) In a letter to ASX dated 15 November 2019, iSignthis stated that during the Relevant Period revenue for the integration services under the integration agreements was \$2,923,960, and total revenue for such services was \$3,056,187.
- 19 The iSignthis 2018 Annual Report:
- (a) was reviewed and approved by the iSignthis Audit Committee on 23 August 2018, and recommended for signing and release to ASX by the Board of Directors; and
 - (b) signed by Karantzis on 28 August 2018.
- 20 In the 6-month period immediately preceding the Relevant Period (1 July 2017 to 31 December 2017) , iSignthis did not record any revenue received from Corp Destination, Fcorp or IMMO.
- 21 In the 6-month period immediately following the Relevant Period (1 July 2018 to 31 December 2018), iSignthis:
- (a) did not record any revenue received from Corp Destination or IMMO; and
 - (b) recorded \$3,373 of revenue received from Fcorp.

THE OUT-SOURCING AGREEMENTS

- 22 During the Relevant Period, Authenticate BV entered into agreements out-sourcing all of the services to be provided by Authenticate BV under the integration agreements (the **out-sourcing agreements**).

Particulars

- (1) Service Agreement dated 15 May 2018 between Authenticate BV and Fino Software Technologies Ltd (**Fino**) for the provision of the integration services required under the Corp Destination agreement;
- (2) Service Agreement dated 30 May 2018 between Authenticate BV and Fino for the provision of the integration services required under the Fcorp agreement (but erroneously stating “Corp Destination”);

- (3) Service Agreement dated 7 June 2018 between Authenticate BV and Gibi Tech Ltd (**Gibi**) for the provision of the integration services required under the IMMO agreement.

23 The out-sourcing agreements:

- (a) were dated on or around the same day as the relevant corresponding integration agreement;
- (b) were in substantially the same terms and form as the relevant corresponding integration agreement;
- (c) required Authenticate BV to pay the relevant contracting party fees which, as at the date of the agreements, were approximately 100% of the one-off integration and set-up fees payable to Authenticate BV under the integration agreements;

Particulars

The total amount of fees payable under the outsourcing agreements was €1,642,000, being approximately 100% of the total amount of fees payable of €1,639,500 under the integration agreements as at the date of the out-sourcing agreements; or approximately 84% taking into account the later executed Corp Destination variation:

- (1) Fino agreement 15 May 2018 (total fees payable of €316,000) for services in respect of the Corp Destination agreement (total fees payable of €298,900 as at 15 May 2018, later varied to €481,925 by the Corp Destination variation 7 June 2018);
- (2) Fino agreement 30 May 2018 (total fees payable of €442,000) for services in respect of the Fcorp agreement (total fees payable €433,900);
- (3) Gibi agreement 7 June 2018 (total fees payable €884,000) for services in respect of the IMMO agreement (total fees payable €900,000).
- (d) contained payment terms that Authenticate BV would pay the relevant contracting party up-front fees upon execution of the out-sourcing agreements and prior to 30 June 2018; and

Particulars

- (1) Fino agreement 15 May 2018, €248,200 due within 7 days of execution, being 22 May 2018, comprising 85% of fees for: (a) trading platform licence, €270,000; (b) training, €2,500; and (c) integration support, €19,500.
- (2) Fino agreement 30 May 2018, €209,000 due within 7 days of execution, being 6 June 2018, comprising 50% of fees for:

(a) trading platform licence, €395,000; (b) training, €2,500; and (c) integration support, €20,500.

- (3) Gibi agreement 7 June 2018, €418,000 due within 7 days of execution, being 14 June 2018, comprising 50% of fees for: (a) trading platform licence, €395,000 per brand; (b) training, €2,500 per brand; (c) integration support, €20,500 per brand.

(e) were signed by Karantzis, with the exception of the unsigned Fino out-sourcing agreement dated 30 May 2018.

24 For the Relevant Period, iSignthis recognised costs under the out-sourcing agreements totalling approximately \$2.85 million.

Particulars

- (1) By 18 June 2018, Authenticate BV had issued invoices under each of the integration agreements for providing services under those agreements and, correspondingly, for receiving services under the out-sourcing agreements.
- (2) On 19 July 2018, iSignthis instructed its accountants that the total COGS (cost of goods sold) incurred by Authenticate BV against the out-sourcing agreements was €1.815 million (approximately \$2.85 million).
- (3) iSignthis recorded cost of sales in its accounts for Authenticate BV at a consolidated level.
- (4) On 31 July 2018, iSignthis published a Consolidated Statement of Cash Flows report for the fourth quarter to 30 June 2018 recording cash outflows from “product manufacturing and operating costs” in the amount of \$2.656 million.

ISIGNTHIS ONE-OFF REVENUE REPRESENTATION

25 On 31 July 2018 and on 3 August 2018, iSignthis reported that total unaudited revenue for the fourth quarter to 30 June 2018 was in excess of \$3.95 million.

Particulars

- (1) On 31 July 2018 in a Report to shareholders for the Quarter Ended 30th June 2018.
- (2) On 3 August 2018 in an “**Analyst Brief**” document provided during and for the purposes of an online interactive session presented by Karantzis on 3 August 2018 to market analysts and investors (the **3 August 2018**

briefing), and which was published on the ASX Market Announcement Platform on 3 August 2018.

- 26 On 3 August 2018, iSignthis represented that in the fourth quarter to 30 June 2018, revenue for one-off or up-front fees accounted for less than 15% of the total revenue (the **One-off Revenue Representation**).

Particulars

The One-off Revenue Representation was made:

- (1) in writing, in the Analyst Brief;
- (2) orally, by Karantzis during the 3 August 2018 briefing.

- 27 The One-off Revenue Representation was made in relation to shares in iSignthis, which are a “financial product” within the meaning of ss 763A and 764A of the Corporations Act.

Particulars

The One-off Revenue Representation was made in relation to shares in iSignthis by reason of:

- (1) the fact that the 3 August 2018 briefing was attended by market analysts and investors and was for a purpose of briefing the market on iSignthis’ performance in the fourth quarter to 30 June 2018;
- (2) the provision of the Analyst Brief to participants of the 3 August 2018 briefing; and
- (3) the publication of the Analyst Brief and an audio recording of the 3 August 2018 briefing on the ASX Market Announcement Platform.

- 28 By reason of the matters set out in paragraphs 16, 18 and 25 to 27:
- (a) iSignthis recognised approximately \$3 million in revenue for one-off integration and set-up fees in the fourth quarter to 30 June 2018;
 - (b) the \$3 million in revenue amounted to approximately 75% of the total unaudited revenue of \$3.95 million reported in the fourth quarter to 30 June 2018; and
 - (c) the One-off Revenue Representation was false and misleading and contrary to s 1041H of the Corporations Act.

- 29 Further, Karantzis:

- (a) made the One-off Revenue Representation to the extent it was made orally;

Particulars

Particular (2) to paragraph 26 is referred to and repeated.

- (b) was involved in making, and was aware of, the One-off Revenue Representation to the extent it was made in writing; and

Particulars

- (1) Karantzis presented the Analyst Brief at the 3 August 2018 briefing.
- (2) Between about 27 July 2018 and 2 August 2018, Karantzis was involved in preparing drafts of the Analyst Brief with Chris Northwood (Investor Relations at iSignthis).

Further particulars may be provided.

- (c) knew or should have known that the One-off Revenue Representation was false.

Particulars

- (1) By reason of the matters set out in paragraphs 16 and 18 and the particulars thereto, Karantzis knew that iSignthis had recognised approximately \$3 million in revenue for one-off integration and set-up fees in the fourth quarter to 30 June 2018.
- (2) By reason of the matters set out in paragraph 25 and the particulars thereto, Karantzis knew that iSignthis had reported that total unaudited revenue for the fourth quarter to 30 June 2018 was in excess of \$3.95 million.

30 A reasonable person acting as Chief Executive Officer of a company in the circumstances set out in paragraphs 13 to 18, 25, 29(a) and 29(b) and with the knowledge of Karantzis referred to in paragraph 29(c):

- (a) would not have made the One-off Revenue Representation to the extent it was made orally;
- (b) would have corrected the One-off Revenue Representation to the extent it was made in writing; and/or
- (c) would have taken steps to ensure that the company did not publish the Analyst Briefing or the audio recording of the 3 August 2018 briefing on the ASX Market Announcement Platform without correcting the One-off Revenue Representation.

- 31 By reason of paragraph 30, Karantzis:
- (a) failed to discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were Chief Executive Officer of a company in iSignthis' circumstances; and
 - (b) contravened s 180 of the Corporations Act.
- 32 The contravention referred to in paragraph 31 was "serious" within the meaning of s 1317G(1)(b)(iii) of the Corporations Act.

Particulars

The contravention involved a departure from the requisite standard of care and diligence, and caused inaccurate information to be in the market. Further particulars may be provided.

MATERIAL NON-DISCLOSURE (ONE-OFF REVENUE/COSTS)

- 33 By reason of the matters set out in paragraphs 13 to 18 and 22 to 24, and for the purposes of Listing Rule 3.1, by about:
- (a) 18 June 2018;
 - (b) alternatively, 19 July 2018;
 - (c) alternatively, 31 July 2018,
- iSignthis was aware that, in the fourth quarter to 30 June 2018:
- (d) it had recognised approximately \$3 million in revenue for one-off integration and set-up services; and
 - (e) it had incurred approximately \$2.85 million in one-off costs for out-sourcing services,

(the **One-off Revenue/Costs Information**).

Particulars

- (1) As to (d), the Plaintiff repeats paragraph 18(b) above and the particulars thereto.
- (2) As to (e), the Plaintiff repeats paragraph 24 above and the particulars thereto.

- 34 The One-off Revenue/Costs Information was not generally available within the meaning of s 674(2)(c)(i) and s 676 of the Corporations Act.

Particulars

iSignthis reported the aggregate numbers for total revenue and total costs in the fourth quarter to 30 June 2018, but did not report:

- (1) how much of the total revenue was one-off revenue; and
- (2) how much of the total costs was one-off costs.

- 35 The One-off Revenue/Costs Information was information that a reasonable person would have expected, if it had been generally available, to have had a material effect on iSignthis' share price within the meaning of s 674(2)(c)(ii) and s 677 of the Corporations Act.

Particulars

The One-off Revenue/Costs Information was material on the basis that:

- (1) in the quarter to 30 September 2017 iSignthis' total revenue was \$276,000 and its cash costs of product manufacturing and operating costs but before other corporate overhead costs were \$101,000;
- (2) in the quarter to 31 December 2017 iSignthis' total revenue was \$553,000 and its cash costs of product manufacturing and operating costs but before other corporate overhead costs were \$123,000;
- (3) in the quarter to 31 March 2018 iSignthis' total revenue was \$1,480,000 and its cash costs of product manufacturing and operating costs but before other corporate overhead costs were \$157,000;
- (4) in the quarter to 30 June 2018 iSignthis' total unaudited revenue was represented in the Analyst Brief and at the 3 August 2018 briefing to be in excess \$3.95 million;
- (5) a 31 July 2018 report to shareholders for the fourth quarter to 30 June 2018 stated that:
 - (a) total unaudited revenue was \$3.95 million;
 - (b) cash receipts from customers was \$2.633 million;
 - (c) payments for "product manufacturing and operating costs" was \$2.656 million;
 - (d) "the company anticipates customer numbers and revenue growth will continue to be strong across its domestic and international businesses in the coming quarters, while margins are expected to improve towards normalised levels";
- (6) if the One-off Revenue/Costs Information was generally available, the market would have known that:
 - (a) less than approximately 25% (or \$0.95 million) and not 85% (or \$3.35 million) of total revenue in the quarter was for ongoing and not one-off revenue;

- (b) a substantial proportion of revenue growth in the quarter was therefore attributable to revenue for one-off integration and set-up services;
- (c) iSignthis' loss of margin in the quarter was attributable to the low margin of the integration revenue and associated costs incurred for out-sourcing services; and
- (d) the One-off Revenue Representation was false.

Further particulars may be provided.

36 By reason of the matters set out in paragraphs 33 to 35, from 18 June 2018, alternatively 19 July 2018 or 31 July 2018, iSignthis was required to notify the ASX of the One-off Revenue/Costs Information under Rule 3.1 of the Listing Rules and s 674(2)(b) of the Corporations Act.

37 iSignthis did not notify the ASX of the One-off Revenue/Costs Information until 15 November 2019, alternatively until 26 November 2019.

Particulars

- (1) In a letter to ASX dated 25 October 2019 and announced to the market on 28 October 2019, iSignthis stated that during the Relevant Period revenue for the integration services was \$26,860.
- (2) In a letter to ASX dated 15 November 2019 and announced to the market on 18 November 2019, iSignthis stated that during the Relevant Period revenue for the integration services under the integration agreements was \$2,923,960, total revenue for such services was \$3,056,187, and that the figure given in the 25 October 2019 letter "was mistaken".
- (3) In a letter to the ASX dated 26 November 2019 and announced to the market on 5 December 2019, iSignthis provided the ASX with copies of the out-sourcing agreements and invoices rendered under those agreements.

Further particulars may be provided.

38 By reason of the matters set out in paragraphs 33 to 37, iSignthis contravened s 674(2) of the Corporations Act on and from 18 June 2018, alternatively 19 July 2018 or 31 July 2018, continuing until 15 November 2019, alternatively until 26 November 2019, by failing to notify the ASX of the One-off Revenue/Costs Information.

39 By reason of the matters set out in paragraphs 13 to 18 and 22 to 24, Karantzis was aware of the One-off Revenue/Costs Information.

40 Karantzis knew that:

- (a) the One-off Revenue/Costs Information was not generally available; and

Particulars

- (1) Karantzis approved releases to the ASX and reports to shareholders.
- (2) Karantzis was involved in preparing and presented the Analyst Briefing at the 3 August 2018 briefing: particulars to paragraph 29(b) above.
- (3) In a response to a question from an analyst Martyn Jacobs made in an email to Karantzis dated 31 July 2018 as to the nature and volume of the revenue reported in the fourth quarter to 30 June 2018, Karantzis said that these “questions are for the annual report post audit”.

Further particulars may be provided.

- (b) the One-off Revenue/Costs Information was information that a reasonable person would have expected, if it had been generally available, to have had a material effect on iSignthis’ share price.

Particulars

Karantzis knew that the proportion of total revenue and costs reported in the fourth quarter to 30 June 2018 that was attributable to one-off non-recurring services was material to market analysts:

- (1) Karantzis made the One-off Revenue Representation at the 3 August 2018 briefing in response to a question from an analyst “what percentage of the revenue last quarter was from ... upfront and one-off fees”.
- (2) By emails dated 31 July 2018, an analyst Martyn Jacobs asked Karantzis questions about the volume of one-off revenue, the nature of reported revenue and the nature of costs incurred.
- (3) On 7 August 2018, Martyn Jacobs forwarded to Karantzis a “buy recommendation” analysis of iSignthis shares stating that: “Recurring business activity constituted c.85% of revenues, with the balance being one-off integration related revenues. This should provide the market with confidence that ISX has genuinely met the threshold to achieve all three tranches of the performance shares”.

Further particulars may be provided.

41 By reason of paragraphs 39 and 40, Karantzis:

- (a) was knowingly concerned in, or party to, and thereby involved in within the meaning of s 79(c) of the Corporations Act, the contravention referred to in paragraph 38; and
- (b) thereby contravened s 674(2A) of the Corporations Act.

42 The contraventions referred to in paragraphs 38 and 41 were “serious” within the meaning of s 1317G(1)(b)(iii) of the Corporations Act.

Particulars

- (1) Both contraventions caused inaccurate and/or materially incomplete information to be in the market.
 - (2) The contravention by Karantzis referred to in paragraph 41 involved, further, a departure from the requisite standard of care and diligence.
- Further particulars may be provided.

43 In the circumstances set out in paragraphs 33 to 37, and with the knowledge of Karantzis set out in paragraphs 39 to 40, a reasonable person acting as Chief Executive Officer:

- (a) would have reached the view that iSignthis was required to disclose the One-off Revenue/Costs Information; and/or
- (b) would not have permitted iSignthis to fail to disclose the One-off Revenue/Costs Information.

44 By reason of paragraphs 39, 40 and 43, Karantzis:

- (a) failed to discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were Chief Executive Officer of a company in iSignthis' circumstances; and
- (b) contravened s 180 of the Corporations Act.

45 The contravention referred to in paragraph 44 was "serious" within the meaning of s 1317G(1)(b)(iii) of the Corporations Act.

Particulars

The contravention involved a departure from the requisite standard of care and diligence, and caused inaccurate and/or materially incomplete information to be in the market. Further particulars may be provided.

VISA TERMINATION

46 On 2 October 2017, VISA approved iSignthis eMoney to be a Principal Member of VISA operating in Europe.

47 On about 10 July 2019, VISA granted iSignthis a Principal Licence to act as an acquiring institution in Australia.

48 By letter dated 6 March 2020, VISA:

- (a) suspended the acquiring bank identification numbers of iSignthis eMoney and iSignthis in Europe and Australia;
- (b) stated that the reason for suspension was that iSignthis had violated VISA Rule ID #0000652 for not implementing and maintaining an anti-money laundering (**AML**) program that is reasonably designed to prevent the use of the VISA system to facilitate money laundering or the financing of terrorist activities;
- (c) requested further information and an explanation in response to VISA's concerns in accordance with VISA Rule ID #0000654; and
- (d) stated that the suspension would continue until such time as iSignthis provided information and a response to VISA's satisfaction.

Particulars

Letter from VISA to iSignthis and iSignthis eMoney 6 March 2020, stating that, following a broad review of iSignthis' merchant portfolio and risk program, VISA had identified:

- (1) unusual transaction activity, including an unexpectedly high volume of cross-border transactions by United States cardholders and a high number of transactions with merchant category codes often associated with miscoded and/or illegal gambling;
- (2) suspicious merchant activity;
- (3) press coverage raising concerns about iSignthis' internal governance, due diligence and client portfolio, including in relation to investigations by the ASX and ASIC into iSignthis; and
- (4) other ongoing risk concerns relating to iSignthis' refusal to cooperate in an attempted risk review in August 2019, despite ongoing alerts from the VISA Compliance Programs on indicators for fraud, dispute and illegal activity, and suspected cases of transaction laundering,

and that, taken collectively, these matters raised serious concerns about whether iSignthis was operating appropriate programs to manage AML and Risk.

49 By letter dated 17 April 2020, VISA:

- (a) terminated its relationship with iSignthis eMoney and iSignthis in accordance with the VISA Rules;
- (b) stated that its reasons for termination were that:
 - (i) iSignthis' response to the 6 March 2020 suspension letter had "not allayed the concerns outlined in the Suspension Letter";

- (ii) VISA had obtained further evidence that “IsignThis is not operating appropriate programs to manage Anti-Money Laundering and Risk”;
- (iii) iSignthis’ transaction monitoring program was “not fit-for-purpose” and “had failed to identify unusual transactional behaviour”; and
- (iv) VISA’s relationship with iSignthis presented an excessive level of risk.

Particulars

- (1) Letter from VISA to iSignthis and iSignthis eMoney 17 April 2020, identifying:
 - (a) inadequate merchant on-boarding processes;
 - (b) inadequate merchant due diligence;
 - (c) a transaction monitoring program that was not fit-for purpose;
 - (d) a general lack of proactive investigation and management; and
 - (e) a failure to register and disclose the use of third-party agents,
 and concluding that: “The [iSignthis] Response has not allayed the concerns outlined in the Suspension Letter, and in fact further evidence has been provided that IsignThis is not operating appropriate programs to manage Anti-Money Laundering and Risk. Therefore, in accordance with the Visa Rules, and to safeguard Visa’s global payment system from the excessive level of risk presented by the IsignThis relationship, Visa has decided to terminate its relationship with IsignThis in Europe and Australia.”
- (2) Letter from VISA to iSignthis and iSignthis eMoney 1 May 2020 further stating the “Basis for Termination” as follows:

“Visa has decided to terminate the membership with iSignThis because of systematic issues with the IST Risk Programs which cannot be easily or quickly remedied. Although iSignThis has acknowledged some failings in its procedures, it still appears to have a fundamental misunderstanding of its role as a Visa client and a responsible acquirer. In particular, it does not see its role as monitoring the merchant and, as further outlined below, apparently still does not understand when investigations of suspicious merchant behaviour is required. It is indicative of a reluctance to meet Visa’s standards that iSignThis did not propose to take steps to terminate client agreements or address control deficiencies until Visa had issued the Termination Letter. As a regulated entity, we would expect iSignThis to regularly assess the adequacy of its systems and controls to ensure that it manages AML/ATF risk effectively, particularly as Visa had raised these issues several times in the past. In order to get to a level which would satisfy Visa that iSignThis is no longer introducing excessive risk into its payments network, there would need to be a significant shift in corporate culture regarding risk and a complete redesign of the IST Risk Programs. Visa is not prepared and not obligated to allow iSignThis to continue to conduct its business in the meantime.”

- (3) Letter from VISA to iSignthis and iSignthis eMoney 12 May 2020, in response to correspondence following VISA’s 17 April 2020 termination letter, stating that:
 - (a) having reviewed further information provided by iSignthis, “VISA has not altered its decision to terminate the relationship with iSignThis”; and
 - (b) VISA “will not review any further information relating to the basis of the decision to terminate, which is final”.

FALSE OR MISLEADING VISA INFORMATION GIVEN TO ASX

50 By letter dated 7 May 2020, the ASX wrote to iSignthis pursuant to Listing Rule 18.7 requiring iSignthis to answer questions and give information relating to, inter alia, iSignthis’ relationship with VISA (the **7 May 2020 ASX Query Letter**).

51 By letter dated 25 May 2020, iSignthis responded to the 7 May 2020 ASX Query Letter (the **25 May 2020 response**) and gave information to the ASX relating to the affairs of iSignthis that:

- (a) was false or misleading in a material particular; and/or
- (b) omitted matters that, by their omission, rendered the information misleading in a material respect.

Particulars

In response to questions asked by the ASX in the 7 May 2020 query letter, iSignthis gave the following information which was false or misleading for the reasons stated.

Question 1(b):	
Question	Please explain the scope and subject matter of the Visa Audit and specifically whether it concerned: <ul style="list-style-type: none"> • the enquiries referred to in the Appendix 4C that Visa was making in relation to the ‘ASX “investigation”, concerns re “derogatory media” and the focus on high risk merchants’ (‘Visa Queries’); • IEL’s [iSignthis eMoney’s] PCI DSS certification; • anti-money laundering issues (noting the statement on Visa’s Global Registry of Service Providers referred to in paragraph F above showing IEL’s current status as ‘SUSPENDED BY AML’); or • something else?

Response	ISX understands that the audit was related to compliance and risk review
Reason	<i>False or misleading because it omits that the 6 March 2020 VISA suspension was for violation of VISA Rule ID #0000652 and VISA's serious concerns about whether iSignthis was operating and maintaining an appropriate AML program: paragraph 48 above.</i>
Question 1(e)	
Question	Has ISX received the results of the Visa Audit? If so, when did it receive them and what were they? If not, when is ISX expecting to receive them?
Response	The audit has been referred to a third-party independent auditor. ISX has not received those results and presently has no expectation on dates due to the impact of COVID on audit capabilities.
Reason	<i>False or misleading because, by 25 May 2020, VISA had already terminated its relationship with iSignthis on 17 April 2020, and re-affirmed on 12 May 2020 that its termination decision was final: paragraph 49 above.</i>
Question 2(b)	
Question	When did ISX first become aware that Visa had suspended IEL from processing payments to merchants across the Visa network pending a response to the Visa Queries?
Response	Visa Queries were not the basis for suspension. The basis for suspension included the "ASX Investigation" and derogatory media.
Reason	<i>False or misleading because it omits that the 6 March 2020 VISA suspension was for violation of VISA Rule ID #0000652 and VISA's serious concerns about whether iSignthis was operating and maintaining an appropriate AML program, and that the suspension was made until such time as iSignthis provided VISA with information and explanations to its satisfaction in accordance with VISA Rule ID #0000654: paragraph 48 above.</i>
Question 2(d)	
Question	Did Visa indicate to IEL at the time it notified IEL of its suspension pending a response to the Visa Queries, or subsequently, the reasons for IEL's suspension? If so, what were they?
Response	Brand risk, including derogatory media and "ASX Investigation".
Reason	<i>False or misleading because it omits that the 6 March 2020 VISA suspension was for violation of VISA Rule ID #0000652 and VISA's serious concerns about whether iSignthis was</i>

	<i>operating and maintaining an appropriate AML program: paragraph 48 above.</i>
Question 2(e)	
Question	Noting the statement on Visa's Global Registry of Service Providers referred to in paragraph F above showing IEL's current status as 'SUSPENDED BY AML', did Visa indicate to ISX at the time it notified IEL of its suspension pending a response to the Visa Queries, or subsequently, that Visa had anti-money laundering concerns?
Response	The question misleadingly conflates different issues. The issues are unrelated, as PCI DSS was not part of any Visa Query, and the apparent reason for the suspension is addressed above. No regulator has suggested that ISX has at any time been in breach of any anti-money laundering regulatory obligations. The only assertions of money laundering appear to have originated with certain elements of the Australian media that are closely linked to the ASX by virtue of commercial relationships, social media and the ASX itself.
Reason	<i>False or misleading because it omits that:</i> (1) <i>the 6 March 2020 VISA suspension was for violation of VISA Rule ID #0000652 and VISA's serious concerns about whether iSignthis was operating and maintaining an appropriate AML program: paragraph 48 above; and</i> (2) <i>the 17 April 2020 VISA termination was made under the VISA Rules because of a failure by iSignthis to satisfactorily operate and maintain an AML program and the excessive level of risk presented by iSignthis: paragraph 49 above.</i>
Question 2(f)	
Question	If the answer to question 2 e) is 'no' then what does ISX understand by the statement on Visa's Global Registry of Service Providers that IEL's status is 'SUSPENDED BY AML'?
Response	ISX has no understanding of the statement. The reference makes no sense, since there is no apparent relationship between AML and PCI DSS.
Reason	<i>False or misleading because it omits that:</i> (1) <i>the 6 March 2020 VISA suspension was for violation of VISA Rule ID #0000652 and VISA's serious concerns about whether iSignthis was operating and maintaining an appropriate AML program: paragraph 48 above;</i> (2) <i>the 17 April 2020 VISA termination was made under the VISA Rules because of a failure by iSignthis to satisfactorily operate and maintain an AML program</i>

	<i>and the excessive level of risk presented by iSignthis: paragraph 49 above.</i>
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52 Karantzis:

- (a) authorised the 25 May 2020 response;
- (b) did not take reasonable steps to ensure that the information given in the 25 May 2020 response:
 - (i) was not false or misleading in a material particular; and
 - (ii) did not omit matters that, by their omission, rendered the information misleading in a material respect; and

Particulars

Karantzis was a party to the correspondence between VISA and iSignthis relating to the VISA suspension and termination referred to in the particulars to paragraphs 48 and 49 above.

- (c) thereby contravened s 1309(2) and (12) of the Corporations Act.

53 By letter dated 5 August 2020, the ASX wrote to iSignthis pursuant to Listing Rule 18.7 requiring iSignthis to answer further questions and give further information relating to iSignthis' relationship with VISA (the **5 August 2020 ASX Query Letter**).

54 By letter dated 17 August 2020, iSignthis responded to the 5 August 2020 ASX Query Letter (the **17 August 2020 response**) and gave information to the ASX relating to the affairs of iSignthis that:

- (a) was false or misleading in a material particular; and/or
- (b) omitted matters that, by their omission, rendered the information misleading in a material respect.

Particulars

- (1) iSignthis stated that "Ultimately the relationship was terminated in the context of rule changes by Visa that are inconsistent with the business model of ISX".
- (2) That statement was false or misleading on the basis that the relationship was terminated by VISA on 17 April 2020 in accordance with the VISA

Rules and because of a failure by iSignthis to satisfactorily operate and maintain an AML program and the excessive level of risk presented by iSignthis: paragraph 48 above.

55 Karantzis:

- (a) signed and authorised the 17 August 2020 response;
- (b) did not take reasonable steps to ensure that the information given in the 17 August 2020 response:
 - (i) was not false or misleading in a material particular; and
 - (ii) did not omit matters that, by their omission, rendered the information misleading in a material respect; and

Particulars

Karantzis was a party to the correspondence between VISA and iSignthis relating to the VISA suspension and termination referred to in the particulars to paragraphs 48 and 49 above.

- (c) thereby contravened s 1309(2) and (12) of the Corporations Act.

56 The contraventions referred to in paragraphs 52 and 55 were “serious” within the meaning of s 1317G(1)(b)(iii) of the Corporations Act.

Particulars

The contraventions involved a departure from the requisite standard of care and diligence, and caused inaccurate and/or materially incomplete information to be provided to the ASX. Further particulars may be provided.

MATERIAL NON-DISCLOSURE (VISA TERMINATION)

57 By reason of the matters set out in paragraphs 48 and 49, and for the purposes of Listing Rule 3.1, by 17 April 2020 iSignthis was aware that:

- (a) VISA had decided to terminate its relationship with iSignthis eMoney and iSignthis (the **VISA Termination Decision**); and
- (b) the reasons for the VISA Termination Decision were that:

- (i) iSignthis' response to the 6 March 2020 suspension letter had "not allayed the concerns outlined in the Suspension Letter";
 - (ii) VISA had obtained further evidence that "IsignThis is not operating appropriate programs to manage Anti-Money Laundering and Risk";
 - (iii) iSignthis' transaction monitoring program was "not fit-for-purpose" and "had failed to identify unusual transactional behaviour"; and
 - (iv) VISA's relationship with iSignthis presented an excessive level of risk,
- (the **Reasons for VISA's Termination**).

58 The VISA Termination Decision and the Reasons for VISA's Termination was not generally available information within the meaning of s 674(2)(c)(i) and s 676 of the Corporations Act.

59 The VISA Termination Decision, further or alternatively, the VISA Termination Decision and the Reasons for VISA's Termination, was information that a reasonable person would have expected, if it had been generally available, to have had a material effect on iSignthis' share price within the meaning of s 674(2)(c)(ii) and s 677 of the Corporations Act.

Particulars

- (1) The information as to the VISA Termination Decision was material on the basis that:
 - (a) On 4 October 2017, iSignthis announced that iSignthis eMoney had been accepted as a VISA principal member.
 - (b) A 31 July 2018 report to shareholders stated that:
 - (i) "Tier 1 or direct connect capabilities to Credit Card Association, Central Banks, and Payment Schemes ... will be the Company's focus for the coming three quarters, in order to eliminate third parties in our supply chain, and reduce our dependency on third party networks, and the associated costs";
 - (ii) "The Company's strategy to address the MCC6211 opportunity includes Principal Membership to the major Credit Card Associations";
 - (iii) "Success is predicated on ensuring that the Company achieves Principal Membership to all relevant major Card Associations".
 - (c) At the 3 August 2018 briefing:
 - (i) the Analyst Brief stated that cards were the world's largest payment source, with VISA holding 56% market share;

- (ii) Karantzis stated that the company's direct connections with card providers including VISA would assist in overcoming temporary supply issues experienced by the company in the fourth quarter to 30 June 2018.
- (d) The directors' report to the iSignthis 2018 Annual Report:
 - (i) stated that "Tier 1 or direct connect capabilities to Credit Card Associations such as VISA, Mastercard and JCB, Central Banks, and Payment Schemes ... will be the Company's focus for the coming three quarters"; and
 - (ii) described the completion of principal membership for VISA as a "milestone".
- (e) On 27 November 2018, iSignthis announced that iSignthis had completed Tier 1 integration to enable direct access to the VISA card scheme.
- (f) A 31 December 2019 letter from the Chairman presenting the iSignthis 2019 Annual Report stated "I am particularly pleased to look back on the major developments that we have been able to announce throughout the 2019. These have included; ... Granted a Visa principal membership for Australia".
- (g) The directors' report to the iSignthis 2019 Annual Report stated: "A substantial portion of the Group's revenue is dependent on its continued membership in international payment schemes".
- (h) On 28 February 2020, iSignthis' announced to the market its Annual Results and stated under "Company Highlights" that "VISA Australian Principal Membership achieved".
- (2) The information as to Reasons for VISA's Termination was material on the basis that:
 - (a) iSignthis represented itself as an "emerging neo-banking, transactions, payments, identity/KYC [know your customer] and technology provider to the financial services industry": directors' report to the iSignthis 2019 Annual Report.
 - (b) iSignthis represented the Paydentity service as a "trusted back office solution for regulated entities" delivering "regulatory compliance to an enhanced customer due diligence standard, offering global reach to any of the world's 4.2Bn 'bank verified' card or account holders" which has "onboarded and verified more than 1.8m persons to an AML KYC standard": directors' report to the iSignthis 2019 Annual Report.
 - (c) iSignthis business strategies included:
 - (i) to provide, and seek further market opportunities to provide, banking services to high risk merchants: 31 July 2018 report to shareholders;
 - (ii) "to exploit the Australian MCC6211 market" and "High Brand Risk" opportunities, including gaming: Analyst Brief;
 - (ii) "to continue to grow the business by marketing to achieve new contracts with entities, usually fintechs, which are regulated by antimoney laundering regulations and e-merchants who require payment, identity and/or authentication services, whilst seeking to mitigate online payment risk and/or achieve AML compliance": directors' report to the iSignthis 2019 Annual Report.

- (d) If the Reasons for VISA's Termination was generally available, the market would have known that VISA considered that:
 - (i) iSignthis was not operating appropriate programs to manage Anti-Money Laundering and Risk;
 - (ii) iSignthis' transaction monitoring program was not fit-for-purpose.

Further particulars may be provided.

60 By reason of the matters set out in paragraphs 57 to 59, from 17 April 2020 iSignthis was required to notify the ASX of the VISA Termination Decision, further or alternatively, the VISA Termination Decision and the Reasons for VISA's Termination, under Rule 3.1 of the Listing Rules and s 674(2)(b) of the Corporations Act.

61 iSignthis did not notify the ASX of the VISA Termination Decision until 17 August 2020, alternatively 24 May 2020.

Particulars

- (1) On 24 May 2020, in a "Letter to Shareholders re Visa Relationship & ASX Suspension", Karantzis wrote that iSignthis "will end its contractual relationship with Visa as a principal member in approximately 90 days. The Company ceased processing as a principal acquiring member in mid-March and has been engaged since that time with Visa in commercial-in-confidence negotiations."
- (2) iSignthis first stated that VISA had terminated its relationship with iSignthis in the 17 August 2020 response: particulars to paragraph 54 above.

62 As at the date of preparing this pleading, iSignthis has not notified the ASX of the Reasons for VISA's Termination.

Particulars

Paragraphs 50 to 55 above are referred to.

63 By reason of the matters set out in paragraphs 57 to 61, iSignthis contravened s 674(2) of the Corporations Act on and from 17 April 2020 continuing until:

- (a) 17 August 2020;
- (b) alternatively 24 May 2020,

by failing to notify the ASX of the VISA Termination Decision.

64 By reason of the matters set out in paragraphs 57 to 60 and 62, iSignthis contravened s 674(2) of the Corporations Act on and from 17 April 2020 continuing until 26 October 2020 by failing to notify the ASX of the Reasons for VISA's Termination.

Particulars

On 26 October 2020, the ASX made information about the Reasons for VISA's Termination available by publishing an announcement "Query letters regarding ISX's suspension and termination by Visa".

65 By reason of the matters set out in paragraphs 48 to 55, Karantzis:

- (a) was aware of the VISA Termination Decision and the Reasons for VISA's Termination; and

Particulars

Karantzis was a party to the correspondence between VISA and iSignthis relating to the VISA suspension and termination referred to in the particulars to paragraphs 48 and 49 above.

- (b) knew that information as to the VISA Termination Decision and the Reasons for VISA's Termination was not generally available.

Particulars

Karantzis was aware of the 7 May 2020 ASX Query Letter and the 5 August 2020 ASX Query Letter, authorised the 25 May 2020 response and signed and authorised the 17 August 2020 response.

66 In the circumstances set out in paragraphs 57 to 62, and with the knowledge of Karantzis set out in paragraph 65, a reasonable person acting as Chief Executive Officer:

- (a) would have reached the view that iSignthis was required to disclose information as to the VISA Termination Decision, further or alternatively, the VISA Termination Decision and the Reasons for VISA's Termination; and/or
- (b) would not have permitted iSignthis to fail to disclose information as to the VISA Termination Decision, further or alternatively, the VISA Termination Decision and the Reasons for VISA's Termination.

67 By reason of paragraphs 65 to 66, Karantzis:

- (a) failed to discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were Chief Executive Officer of a company in iSignthis' circumstances; and
- (b) contravened s 180 of the Corporations Act.

68 The contraventions referred to in paragraphs 63, 64 and 67 were “serious” within the meaning of s 1317G(1)(b)(iii) of the Corporations Act.

Particulars

The contraventions involved a departure from the requisite standard of care and diligence, and caused inaccurate and/or materially incomplete information to be provided to the ASX. Further particulars may be provided.

DIRECTOR DUTIES: KARANTZIS

69 By reason of the matters set out at paragraphs 7 to 12:

- (a) Karantzis had a material personal financial interest in iSignthis achieving the Performance Milestones; and
- (b) during the Relevant Period, Karantzis knew that:
 - (i) iSignthis had not achieved any Performance Milestone in any previous 6 month period since the Acquisition; and
 - (ii) if iSignthis did not record revenue of at least \$2.5 million in the Relevant Period, iSignthis would not achieve any of the Performance Milestones, and all of the Performance Shares would convert into a single Ordinary Share.

70 By reason of the matters set out in paragraphs 13 to 20, and the particulars thereto:

- (a) Karantzis caused Authenticate BV to enter into the integration agreements in the Relevant Period;
- (b) Karantzis knew that if the contracted-for fees under the integration agreements was recognised as revenue in the Relevant Period, iSignthis would achieve at least the Class A Performance Milestone;

- (c) Karantzis caused iSignthis to report that all of the integration services required under the integration agreements had been performed before the end of the Relevant Period; and

Particulars

- (1) Karantzis drafted the Certificates of Practical Completion for each integration agreement, which.
 - (a) certified that all of the services required under the integration agreements had been provided before the end of the Relevant Period;
 - (b) were provided to iSignthis' auditor for the purposes of auditing the iSignthis 2018 Annual Report.
 - (2) Karantzis instructed the relevant customers under the integration agreements to sign the Certificates of Practical Completion.
 - (3) In a letter dated 28 August 2018 to iSignthis' auditors, signed by Karantzis, iSignthis stated: "We are satisfied that the work required under all contracts with customers for the provision of integration, establishment, project and platform services has been satisfactorily completed by the Group at 30 June 2018."
- (d) Karantzis took steps to ensure that iSignthis recognised revenue under the integration agreements in the Relevant Period.

Particulars

- (1) Karantzis directed Authenticate BV to issue invoices under the integration agreements.
 - (2) From time to time, Karantzis gave directions and instructions to Richards for the purpose of Richards providing information to and responding to questions from iSignthis' auditors regarding the audit of iSignthis' revenue under the integration agreements.
- 71 By reason of the matters set out in paragraphs 69 and 70, Karantzis used his position to ensure that:
- (a) Authenticate BV entered into the integration agreements in the Relevant Period;
 - (b) the contracted-for fees under the integration agreements was recognised as revenue in the Relevant Period; and
 - (c) iSignthis would achieve one or more of the Performance Milestones.

72 The conduct referred to in paragraph 71:

- (a) resulted in Karantzis gaining an advantage for himself and others;

Particulars

Paragraphs 4 and 7 to 12 above are referred to and repeated.

- (b) was not in the best interests of, and caused detriment to, iSignthis and its shareholders; and

Particulars

The conversion of the 336,666,667 Performance Shares into Ordinary Shares diluted the share capital in iSignthis and increased the total number shares in iSignthis on issue to 1,004,832,159. Further particulars may be provided.

- (c) was done for the improper purpose of achieving a financial gain for Karantzis and others.

73 By reason of the matters set out in paragraphs 69 to 72, Karantzis:

- (a) contravened his obligations in s 182 of the Corporations Act; and
- (b) failed to exercise his powers and discharge his duties in good faith in the best interests of the company and for a proper purpose, in contravention of his obligations in s 181 of the Corporations Act.

74 The contraventions referred to in paragraph 73:

- (a) materially prejudiced the interests of iSignthis' shareholders within the meaning of s 1317G(1)(b)(i) of the Corporations Act; and

Particulars

The particulars to paragraph 72(b) are referred to and repeated.

- (b) were "serious" within the meaning of s 1317G(1)(b)(iii) of the Corporations Act.

Particulars

The contraventions involved a departure from the requisite standard of care and diligence. Further particulars may be provided.

AND THE PLAINTIFF CLAIMS:

- A A declaration that, by representing on 3 August 2018 that iSignthis' revenue for one-off integration and set-up fees in the period 1 April 2018 to 30 June 2018 accounted for less than 15% of the total revenue in that period, iSignthis engaged in conduct that was misleading or deceptive, in contravention of section 1041H of the Corporations Act.
- B A declaration pursuant to section 1317E of the Corporations Act that iSignthis contravened section 674(2) of the Corporations Act on and from 18 June 2018, alternatively 19 July 2018 or 31 July 2018, continuing until 15 November 2019, alternatively until 26 November 2019, by failing to notify the ASX that, in the final quarter to 30 June 2018:
- (a) it had recognised approximately \$3 million in revenue for one-off integration and set-up services; and
 - (b) it had incurred approximately \$2.85 million in one-off costs for out-sourcing services.
- C A declaration pursuant to section 1317E of the Corporations Act that iSignthis contravened section 674(2) of the Corporations Act on and from 17 April 2020 continuing until 17 August 2020, alternatively 24 May 2020, by failing to notify the ASX that VISA had decided to terminate its relationship with iSignthis eMoney and iSignthis in accordance with the VISA Rules (the VISA Termination Decision).
- D A declaration pursuant to section 1317E of the Corporations Act that iSignthis contravened section 674(2) of the Corporations Act on and from 17 April 2020 continuing until 26 October 2020 by failing to notify the ASX that the Reasons for the VISA Termination decision were that:
- (a) iSignthis' response to the 6 March 2020 suspension letter had "not allayed the concerns outlined in the Suspension Letter";

- (b) VISA had obtained further evidence that “iSignThis is not operating appropriate programs to manage Anti-Money Laundering and Risk”;
 - (c) iSignthis’ transaction monitoring program was “not fit-for-purpose” and “had failed to identify unusual transactional behaviour”; and
 - (d) VISA’s relationship with iSignthis presented an excessive level of risk.
- E Declarations that the contraventions referred to in B to D above are serious within the meaning of section 1317G(1)(b)(iii) of the Corporations Act.
- F Orders pursuant to section 1317G(1) of the Corporations Act that iSignthis pay to the Commonwealth a pecuniary penalty in respect of the contraventions referred to in B to D above.
- G A declaration pursuant to section 1317E of the Corporations Act that Karantzis was involved in the contravention referred to at B above and thereby contravened section 674(2A) of the Corporations Act.
- H A declaration pursuant to section 1317E of the Corporations Act that Karantzis gave or authorised the giving of information to the ASX in letters dated 25 May 2020 and 17 August 2020 relating to the affairs of iSignthis that was false or misleading and/or misleading in a material respect by reason of omissions, without having taken reasonable steps to ensure that the information was not so false or misleading, in contravention of sections 1309(2) and (12) of the Corporations Act.
- I A declaration pursuant to section 1317E of the Corporations Act that Karantzis contravened section 180 of the Corporations Act in respect of the contravention referred to in A above.

- J A declaration pursuant to section 1317E of the Corporations Act that Karantzis contravened section 180 of the Corporations Act in respect of the contravention referred to in B above.
- K A declaration pursuant to section 1317E of the Corporations Act that Karantzis contravened section 180 of the Corporations Act in respect of the contravention referred to in C above.
- L A declaration pursuant to section 1317E of the Corporations Act that Karantzis contravened section 180 of the Corporations Act in respect of the contravention referred to in D above.
- M A declaration pursuant to section 1317E of the Corporations Act that Karantzis contravened section 181 of the Corporations Act.
- N A declaration pursuant to section 1317E of the Corporations Act that Karantzis contravened section 182 of the Corporations Act.
- O In respect of the contraventions referred to in H to N above, orders pursuant to section 206C of the Corporations Act that Karantzis be disqualified from managing corporations for a period that the Court considers appropriate.
- P Alternatively to O, in respect of the contraventions referred to in G to N above, orders pursuant to section 206E(1)(a)(ii) of the Corporations Act that Karantzis be disqualified from managing corporations for a period that the Court considers appropriate.
- Q Alternatively to P, in respect of the contraventions referred to in A to D and I to L above, orders pursuant to section 206E(1)(a)(i) of the Corporations Act that Karantzis be disqualified from managing corporations for a period that the Court considers appropriate.
- R Declarations that the contraventions referred to in G to N above are serious within the meaning of section 1317G(1)(b)(iii) of the Corporations Act.

S A declaration that the contraventions referred to in M and N above materially prejudiced the interests of iSignthis' shareholders within the meaning of section 1317G(1)(b)(i) of the Corporations Act.

T Orders pursuant to section 1317G(1) of the Corporations Act that Karantzis pay to the Commonwealth a pecuniary penalty in respect of the contraventions referred to in G to N above.

U Costs.

V Such further or other orders as the Court see fit.

Date: 6 December 2020



Signed by Andrew Harpur
Lawyer for the Plaintiff

This statement of claim was prepared by Michael Borsky QC, Mark Costello and Rudi Kruse.

Certificate of lawyer

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

Date: 6 December 2020



Signed by Andrew Harpur
Lawyer for the Plaintiff