

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 7/12/2022 7:52:14 AM AEDT
Date Accepted for Filing: 7/12/2022 8:54:25 AM AEDT
File Number: NSD1046/2022
File Title: CHIEF EXECUTIVE OFFICER OF THE AUSTRALIAN TRANSACTION
REPORTS AND ANALYSIS CENTRE v SKYCITY ADELAIDE PTY LTD
ABN 72 082 362 061
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



Sia Lagos

Registrar

Important Information

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 of the filing of the document is determined pursuant to the Court's Rules.



Form 15
Rules 8.01(1), 8.04(1)

ORIGINATING APPLICATION

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: GENERAL**

NO NSD OF 2022

**CHIEF EXECUTIVE OFFICER OF THE AUSTRALIAN
TRANSACTION REPORTS AND ANALYSIS CENTRE**

Applicant

**SKYCITY ADELAIDE PTY LTD
ABN 72 082 362 061**

Respondent

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

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

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

TIME AND DATE FOR HEARING:

PLACE: Law Courts Building
Queens Square, Sydney, New South Wales

Date:

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

Filed on behalf of the Applicant, the Chief Executive Officer of
the Australian Transaction Reports and Analysis Centre

Prepared by: Sonja Marsic
AGS lawyer within the meaning of s 55I of the *Judiciary Act*
1903

Address for Service:
The Australian Government Solicitor,
Level 10, 60 Martin Place, Sydney, NSW 2000
Sonja.Marsic@ags.gov.au

File ref: 21003669

Telephone: 02 958 17505
Lawyer's Email:
Sonja.Marsic@ags.gov.au
Facsimile: 02 9581 7650



DETAILS OF CLAIM

On the grounds stated in the Statement of Claim, the Applicant claims:

The AML/CTF Program contraventions

1. A declaration that on each occasion that the Respondent (**SCA**) commenced to provide a designated service to a customer on and from 7 December 2016, SCA contravened s 81(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (the **Act**) because Part A of their Anti-Money Laundering and Counter-Terrorism Financing (**AML/CTF**) Program was not a Program that:
 - a. had the primary purpose of identifying, mitigating and managing the risk that SCA may reasonably face that the provision of designated services at or through a permanent establishment in Australia might (whether inadvertently or otherwise) involve or facilitate money laundering or financing of terrorism (**ML/TF**), as required by s 84(2)(a) of the Act and by rr 8.1.3, 8.1.4, 8.1.5, 8.4, and 8.7 of the *Anti-Money Laundering and Counter-Terrorism Financing Rules 2007* (Cth) (the **Rules**) made under s 84(2)(c) of the Act; and
 - b. complied with the requirements that were specified in Chapters 8 and 15 of the Rules, being the rules made for the purposes of s 84(2)(c) of the Act; and
 - c. provided for an appropriate risk methodology that was capable of identifying and assessing the ML/TF risks of its designated services, as required by ss 84(2)(a) and (c) of the Act and rr 8.1.3, 8.1.4 and 8.1.5 of the Rules; and
 - d. was aligned to appropriate and current risk assessments of the ML/TF risks reasonably faced by SCA with respect to the provision of designated services, as required by ss 84(2)(a) and (c) of the Act and rr 8.1.3, 8.1.4 and 8.1.5 of the Rules; and
 - e. included or established an appropriate framework for approval and ongoing oversight by the Board and senior management of the Part A Program, as required by ss 84(2)(a) and (c) of the Act and r 8.4 of the Rules; and
 - f. included appropriate risk-based systems and controls that were capable by design of mitigating and managing the ML/TF risks reasonably faced by SCA with respect to the designated services that it provided, as required by ss 84(2)(a) and (c) of the Act and rr 8.1.3 and 8.1.5(4) of the Rules; and
 - g. include an appropriate risk-based transaction monitoring program to monitor the transactions of customers and to identify transactions that may be suspicious for the purposes of s 41 of the Act, as required by s 84(2)(c) of the Act and by rr 8.1.3, 8.1.4 and Chapter 15 of the Rules; and
 - h. include an appropriate enhanced customer due diligence program, as required by s 84(2)(c) of the Act and by rr 8.1.3, 8.1.4, 8.1.5 and Chapter 15 of the Rules; and



- i. included systems and controls designed to ensure SCA complied with the reporting requirements under Part 3 of the Act with respect to suspicious matters, threshold transactions and international funds transfer instructions, as required by s 84(2)(c) of the Act and by r 8.9.1(2) of the Rules.
2. A declaration that on each occasion that SCA commenced to provide a designated service to a customer on and from 7 December 2016, SCA contravened s 81(1) of the Act because Part B of its AML/CTF Program was not a Program that:
 - a. had the sole or primary purpose of setting out the applicable customer identification procedures for the purposes of the application of the Act to all customers of SCA, as required by s 84(3)(a) of the Act; and
 - b. complied with the requirements that were specified in Chapter 4 of the Rules, as required by s 84(3)(b) of the Act.

The ongoing customer due diligence contraventions

3. A declaration that, for periods on and from 7 December 2016, SCA contravened s 36(1) of the Act by failing to monitor 124 customers in relation to the provision of designated services:
 - a. with a view to identifying, mitigating and managing the money laundering risks that SCA faced; and
 - b. in accordance with Chapter 15 of the Rules.

Pecuniary penalty

4. An order that the Respondent pay the Commonwealth a pecuniary penalty pursuant to s 175(1) of the Act.

Other orders

5. Costs.
6. Such other orders as the Court thinks fit.

APPLICANT'S ADDRESS

The Applicant's address for service is:

Australian Government Solicitor,
Level 10, 60 Martin Place, Sydney, NSW 2000

Email: Sonja.Marsic@ags.gov.au

The Australian Government Solicitor's telephone, facsimile, and document exchange numbers are:



Tel: 02 958 17505

Fax: 02 9581 7650

The Applicant's address is:

Place: Level 27, 727 Collins Street DOCKLANDS VIC 3008

SERVICE ON THE RESPONDENT

It is intended to serve this application on the Respondent.

Date: 7 December 2022

A handwritten signature in black ink, appearing to be 'SM', written over a horizontal dotted line.

Sonja Marsic
AGS lawyer
for and on behalf of the Australian Government Solicitor
Lawyer for the Applicant