

BETWEEN:

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
Appellant

and

MICHAEL CHRISTODOULOU KING
First Respondent

and

ACN 101 634 146 PTY LTD (IN LIQUIDATION)
Second Respondent



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FIRST RESPONDENT'S CHRONOLOGY

Part I: CERTIFICATION

This chronology is in a form suitable for publication on the internet.

Part II: CHRONOLOGY

QSC = [2016] QSC 109; (2016) 308 FLR 216 (contravention reasons) **CAB 5**
(Vol 1)

QCA = [2018] QCA 352 (contravention appeal reasons) **CAB 482** (Vol 2)

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No.	Date	Event/Description	Reference
1.	1999	Mr King co-founds McLaughlins Financial Services.	QSC - CAB 22 at [13]
2.	2004	MFS Ltd is incorporated.	QSC - CAB 24 at [26]
3.	about mid-2005	MFS Ltd combines its existing investments in tourism-related businesses and establishes the Stella	QSC - CAB 25 at [29]-[30]

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Filed on behalf of the First Respondent
by:

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No.	Date	Event/Description	Reference
		Group, as a division of the overall MFS Group which is wholly owned by MFS Ltd.	
4.	early 2007, before 27 Feb 2007	Relationship between MFS Group and the National Australia Bank (NAB) breaks down, necessitating that facilities from another finance provider be obtained. Mr King issues directive that MFS Group should terminate its borrowing arrangements with the NAB.	QSC - CAB 32 at [77] QCA - CAB 556 at [259]-[260]
5.	27 Feb 2007	Mr King ceases to be a director of MFS Investment Management Pty Ltd (MFSIM), but remains CEO and executive director of MFS Ltd.	QSC - CAB 22 at [13]-[14]
6.	from May 2007	CVC Asia Pacific Ltd (CVC) considers the acquisition of all or a part of the Stella Group of companies. Within the MFS Group, it is envisaged that such a transaction would free up considerable capital for the use of the wider MFS Group, including to repay debt.	QSC - CAB 25 at [31], CAB 30 at [65]
7.	May 2007	CVC makes a non-binding proposal to acquire 50% of the Stella Group of companies.	QSC - CAB 25 at [31]
8.	June 2007	A facility of \$800 million is obtained enabling the Stella Group to operate as a stand-alone business. The facility agreement with the financier (UBS Investment Bank) precludes the use of the property of the Stella Group for other parts of the MFS Group.	QCA - CAB 509 at [71]
9.	1 June 2007	MFS Castle Pty Ltd (MFS Castle), a wholly owned subsidiary of MFS Ltd, enters into a short-term loan facility with Fortress Credit Corporation (Australia) II Pty Ltd (Fortress) for \$250 million (Fortress Loan), to be repaid by 31 August 2007, and secured by MFS Ltd and MFS Financial Services Ltd. MFS Castle draws down \$250 million and pays that sum to MFS Administration Pty Ltd (MFS	QSC - CAB 29 at [60], CAB 32 at [79]-[80] QCA - CAB 509 at [73]

No.	Date	Event/Description	Reference
		Administration). It is expected that significant funds will come into the MFS Group from the proposed sale of the Stella Group or from the finalisation of a \$450 million corporate banking facility, allowing the repayment of the Fortress Loan.	
10	<u>25 June 2007</u>	<u>Mr King resigns as director of MFS Administration Pty Ltd (renamed Octaviar Administration Pty Ltd on 2 October 2008)</u>	<u>QSC - CAB 48</u> at [151] <u>Respondents</u> <u>Further</u> <u>Materials, Item 3</u>
20	29 June 2007	MFSIM as the responsible entity of PIF (Premium Income Fund) enters into a loan facility with the Royal Bank of Scotland Plc (RBS) for borrowing of up to \$200 million. The loan facility is to be used for the purposes of PIF.	QSC - CAB 32 at [78]
	31 Oct 2007	PIF has funds under management of approximately \$787 million.	QSC - CAB 33 at [84]
	7 Nov 2007	Mr King reports to the board of MFS Ltd that the partial sell-down of Stella to private equity "should have resolved by [the] end of November".	QCA - CAB 509 at [72]
30	<u>19 Nov 2007</u>	<u>Update given to MFSIM Management Team meeting that there would be a drawdown on RBS facility for the purposes of an investment</u>	<u>QSC - CAB 38</u> at [108]
	<u>21 Nov 2007</u>	<u>Direction given to commence necessary processes to draw down on the RBS Facility. This was confirmed to be the \$150 million drawdown.</u>	<u>QSC - CAB 38</u> at [108]
40	By about 21 Nov 2007	Negotiations with CVC for the sale of the Stella Group stall.	QSC - CAB 32 at [81]
	<u>23 November 2007, 1:53pm</u>	<u>Ms Watts emails Ms Janina Howard requesting, inter alia, that she start the process for a drawdown by PIF next week from the RBS facility. The amount of the drawdown, and the period was not finalised.</u>	<u>QSC - CAB 38</u> at [108]
50	24 Nov 2007	Mr King emails the directors of MFS Ltd saying that "[w]e have decided overnight to withdraw from the Stella	QCA - CAB 509-510

No.	Date	Event/Description	Reference	
		Private Equity sale process".	at [74]	
19.	late Nov 2007	MFS Ltd does not have the capacity to repay the amount due at the end of November 2007 under the Fortress Loan. Mr King negotiates with Fortress to defer repayment of the Fortress Loan.	QSC - CAB 33 at [87], CAB 40-41 at [114] QCA - CAB 509 at [73]	
10	20.	25 Nov 2007	Terms for repayment of the Fortress Loan varied by agreement such that a payment of \$100 million is due by 30 November 2007, plus an extension fee of \$3 million, with the balance of \$150 million payable by 1 March 2008.	QSC - CAB 33 at [87], CAB 178 at [767]
20	21.	27 Nov 2007	MFSIM as the responsible entity for PIF draws down \$150 million of the \$200 million loan facility with RBS.	QSC - CAB 33 at [88]
20	22.	30 Nov 2007	MFSIM makes payment of \$130 million from PIF to MFS Administration Pty Ltd. MFS Administration causes \$103 million of the \$130 million payment from MFSIM to be paid to Fortress.	QSC - CAB 20 at [2], CAB 33-34 at [89]
30	23.	Dec 2007	MFS Pacific Finance Ltd (PacFin) urgently needs \$16 million to meet commitments to its debenture holders.	QCA - CAB 498 at [12]
30	24.	13 Dec 2007	MFSIM as the responsible entity for PIF draws down \$15,000,000 of its loan facility with RBS.	QSC - CAB 34 at [91]
40	25.	18 Dec 2007	MFSIM as the responsible entity for PIF draws down \$25,000,000 of its loan facility with RBS.	QSC - CAB 34 at [91]
40	26.	24 Dec 2007	MFSIM as the responsible entity for PIF draws down \$10,000,000 of its loan facility with RBS.	QSC - CAB 34 at [91]
	27.	27 Dec 2007	MFSIM makes payment of \$17.5 million to PacFin.	QSC - CAB 20 at [3], CAB 34 at [92]
	28.	21 Jan 2008	Mr King resigns as CEO and executive director of MFS Ltd. Craig White becomes CEO of MFS Ltd.	QSC - CAB 22 at [13], [16]

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No.	Date	Event/Description	Reference
29.	2 Jan 2008 to 11 Feb 2008	False documents prepared purporting to record transactions justifying November and December 2007 payments from MFSIM.	QSC - CAB 98 at [413]-[437]
30.	14 Aug 2008	ASIC conducts s 19 examination of Mr King.	CAB 553 at [250]
31.	Oct 2009	ASIC commences proceeding against Mr King.	QSC - CAB 21 at [12]
32.	4 Nov 2013	Trial before Justice Douglas commences.	
33.	12 Sept 2014	Trial before Justice Douglas concludes.	
34.	23 May 2016	Justice Douglas delivers reasons for judgment on liability.	CAB 5
35.	14 & 17 October 2016	Hearing before Justice Douglas on penalty and other orders.	
36.	26 May 2017	Justice Douglas delivers reasons for judgment on penalty and costs and pronounces orders.	CAB 354 (Reasons) CAB 437 (Order)
37.	23 June 2017	Mr King files Notice of Appeal.	CAB 463
38.	7 Jul 2017	ASIC files Notice of Cross-Appeal. ASIC files Notice of Contention.	CAB 475 CAB 479
39.	4-8, 11-15, 18 June 2018	Hearing of appeal before the Court of Appeal of the Supreme Court of Queensland.	
40.	18 Dec 2018	Delivery of judgment and reasons by the Court of Appeal of the Supreme Court of Queensland (Morrison and McMurdo JJA and Applegarth J).	CAB 482 (Reasons) CAB 705 (Order)
41.	17 May 2019	Order made granting ASIC special leave to appeal.	CAB 1002
42.	29 May 2019	Notice of Appeal filed in High Court of Australia.	CAB 1005
43.	18 June 2019	Delivery of judgment and reasons by the Court of Appeal of the Supreme Court of Queensland (Morrison and McMurdo JJA and Applegarth J) in respect of penalty and costs.	Supp CAB 4 (Reasons) Supp CAB 19 (Order)

Dated: 12 August 2019

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