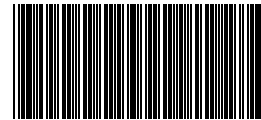




Filed: 19 December 2019 2:12 PM



D00017ZKZP

Commercial List Response

COURT DETAILS

| | |
|-------------|----------------------|
| Court | Supreme Court of NSW |
| Division | Equity |
| List | Commercial |
| Registry | Supreme Court Sydney |
| Case number | 2018/00353304 |

TITLE OF PROCEEDINGS

| | |
|----------------------|---|
| First Plaintiff | Ashita Tomi Pty Ltd as trustee for Esskay Super Fund ABN 79582038569 |
| First Defendant | RCR TOMLINSON LTD trading as RCR Tomlinson Ltd ACN 008898486 |
| Second Defendant | Paul Joseph Dagleish |
| Number of Defendants | 3 |

FILING DETAILS

| | |
|--------------------------------|--|
| Filed for | RCR TOMLINSON LTD trading as RCR Tomlinson Ltd, Defendant 1 |
| Legal representative | Michael Russell |
| Legal representative reference | |
| Telephone | 8281 4555 |
| Your reference | MER.1806866 |

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Commercial List Response (RCR - Final Signed Amended Commercial List Response(12624866.1).pdf)

[attach.]

Form 1 (version 4)
Practice Note No. SC Eq 3

AMENDED COMMERCIAL LIST RESPONSE

COURT DETAILS

| | |
|-------------|----------------------------------|
| Court | Supreme Court of New South Wales |
| Division | Equity Division |
| List | Commercial List |
| Registry | Sydney |
| Case number | 2018 / 00353304 |

TITLE OF PROCEEDINGS

| | |
|----------------------|--|
| First Plaintiff | Ashita Tomi Pty Ltd as trustee for Esskay Super Fund (ABN 79 582 038 569) |
| Number of Plaintiffs | 3 |
| First Defendant | RCR Tomlinson Ltd (ACN 008 898 486) |
| Number of Defendants | 3 |

FILING DETAILS

| | |
|--------------------------------|---|
| Filed for | RCR Tomlinson Ltd (ACN 008 898 486) defendant |
| Filed in relation to | Plaintiff's <u>Commercial List</u> Statement |
| Legal representative | Michael Edward Russell of Colin Biggers & Paisley Pty Ltd |
| Legal representative reference | MER:1806866 |
| Contact name and telephone | Michael Russell (02) 8281 4555 |
| Contact email | michael.russell@cbp.com.au |

COMMERCIAL LIST RESPONSE

A. NATURE OF DISPUTE

- The First Defendant (**RCR**) agrees that the Plaintiffs' statement of the nature of the dispute reflects the Plaintiffs' contentions in the Commercial List Statement.
- ~~RCR is in liquidation. The liquidators of RCR (**Liquidators**) presently have had limited funding to investigate the subject matter of these proceedings and their investigations of those matters are on-going. The Liquidators reserve their rights to apply to amend this Commercial List Response, including but not limited to identifying additional or affirmative defences and any concurrent wrongdoers.~~

B. ISSUES LIKELY TO ARISE

- RCR agrees that paragraphs 1 to 4 identify issues that are likely to arise in the proceedings.

2. RCR agrees that, depending on the determination of the issues in paragraphs 1.1 to 1.11, paragraph 1.12 identifies an issue that may arise, but says if it arises that issue may not be common to all Group Members and it may be necessary for its determination to be dealt with on a sub-group or individual basis. Similar questions will arise with respect to issues in paragraphs 2 to 4.

C. FIRST DEFENDANT'S RESPONSES TO CONTENTIONS

RCR adopts headings used in the Commercial List Statement without admission and for convenience only.

I. INTRODUCTION

(A) The Plaintiff and Group Members

1. In response to paragraph 1 of the Commercial List Statement, RCR:
 - (a) admits that the proceedings have been commenced as a representative proceeding; and
 - (b) otherwise does not admit the paragraph.
2. RCR does not admit paragraph 2 of the Commercial List Statement.
3. RCR does not admit paragraph 3 of the Commercial List Statement.
4. ~~RCR does not admit~~ In response to paragraph 4 of the Commercial List Statement, RCR:
 - (a) admits that the first plaintiff:
 - (i) purchased 3,000 RCR shares on the ASX on or about 31 July 2018; and
 - (ii) thereby acquired an interest in RCR shares during the period from 28 December 2016 to 12 November 2018 inclusive (Relevant Period);
 - (b) otherwise does not admit the paragraph.
5. RCR does not admit paragraph 5 of the Commercial List Statement.
6. RCR does not admit paragraph 6 of the Commercial List Statement.
7. RCR does not admit paragraph 7 of the Commercial List Statement.

(B) The Defendants and other relevant persons

8. In response to paragraph 8 of the Commercial List Statement, RCR:
- (a) does not admit subparagraphs 8.6 of the Commercial List Statement; and
 - (b) otherwise admits ~~the balance of the~~ paragraph.
9. RCR admits paragraph 9 of the Commercial List Statement.
10. RCR admits paragraph 10 of the Commercial List Statement.
11. RCR admits paragraph 11 of the Commercial List Statement.
12. RCR ~~does not admit~~ paragraph 12 of the Commercial List Statement.

(C) Application of section 674(2) of the Corporations Act

13. RCR admits paragraph 13 of the Commercial List Statement.

II. RCR'S BUSINESS

14. RCR admits paragraph 14 of the Commercial List Statement.
15. RCR ~~does not admit~~ paragraph 15 of the Commercial List Statement.
16. In response to paragraph 16 of the Commercial List Statement, RCR:
- (a) ~~relies on the said document for its full terms and effect~~ admits that it made an announcement to the market by ASX Announcement and Media Release dated 4 April 2016;
 - (a1) admits that, within that announcement, RCR stated that it would strategically reorganise its business by, among other things, reducing its exposure to coal mining services and increasing its exposure to renewable energy;
 - (a2) will rely on the entirety of the announcement at trial; and
 - (b) otherwise ~~does not admit the balance of~~ denies the paragraph.
17. In response to paragraph 17 of the Commercial List Statement, RCR:
- (a) admits that the renewable energy sector was a new and emerging market as at mid to late 2016;

(a1) says that as at mid to late 2016, it had delivered services to the renewable energy market, including:

(i) construction and commissioning works for a solar farm at Broken Hill in New South Wales;

(ii) works under an early contractor involvement arrangement for a proposed solar farm at Darling Downs in Queensland; and

(b) otherwise ~~does not admit~~ denies the paragraph.

18. ~~RCR does not admit~~ In response to paragraph 18 of the Commercial List Statement, RCR:

(a) admits that by 28 December 2016, its business strategy included pursuing contracts relating to the engineering, procurement and construction of solar farms (EPC Solar Contracts); and

(b) otherwise denies the paragraph.

19. In response to paragraph 19 of the Commercial List Statement, RCR:

(a) repeats subparagraph 18(a) above and admits that from about December 2016 until about April 2018, it entered into at least fifteen EPC Solar Contracts having an aggregate award value of approximately \$1.5 billion ~~various contracts for the engineering, procurement and construction of solar farms;~~ and

(b) otherwise ~~does not admit~~ denies the paragraph.

20. RCR ~~does not admit~~ admits paragraph 20 of the Commercial List Statement.

21. RCR ~~does not admit~~ admits paragraph 21 of the Commercial List Statement.

III. DAYDREAM AND HAYMAN SOLAR FARMS PROJECT

22. RCR admits paragraph 22 of the Commercial List Statement.

23. ~~RCR does not admit~~ In response to paragraph 23 of the Commercial List Statement, RCR:

(a) admits that the work performed in relation to the Project included the driving of approximately 110,000 piles into the ground and the installation of approximately 2.2 million solar panel modules mounted on the piles; and

(b) otherwise does not admit the paragraph.

24. ~~RCR does not admit~~ In response to paragraph 24 of the Commercial List Statement, RCR:
- (a) admits that in submitting a tender for the Project, it made an estimate of total costs in relation to the Project; and
 - (b) otherwise does not admit paragraph.

25. RCR admits paragraph 25 of the Commercial List Statement.

26. RCR ~~does not~~ admits paragraph 26 of the Commercial List Statement.

27. RCR ~~does not~~ admits paragraph 27 of the Commercial List Statement.

IV. RELEVANT ANNOUNCEMENTS, DISCLOSURES AND EVENTS

(A) 23 February 2017 Announcements

28. RCR admits paragraph 28 of the Commercial List Statement.

29. RCR ~~does not~~ admits paragraph 29 of the Commercial List Statement.

30. ~~RCR does not admit~~ In response to paragraph 30 of the Commercial List Statement, RCR:

- (a) admits that the 23 February 2017 Announcements included statements attributed to Dalgleish to the effect pleaded in subparagraphs 30.1 to 30.8 inclusive;
- (b) will rely on the entirety of the 23 February 2017 Announcements at trial; and
- (c) otherwise denies the paragraph.

31. In response to paragraph 31 of the Commercial List Statement, RCR:

- (a) relies on the said documents for their full terms and effect refers to and repeats its response to paragraph 30 of the Commercial List Statement;
- (a1) admits that the 23 February 2017 Announcements included a statement to the effect pleaded in subparagraph 31.2;
- (a2) admits that the statements referred to in subparagraphs 30(a) and 31(a1) above were made to the Affected Market by or on behalf of RCR;
- (a3) will rely on the entirety of the 23 February 2017 Announcements at trial; and
- (b) otherwise does not admit the balance of denies the paragraph.

(B) 3 May 2017 Presentation

32. RCR ~~does~~ admits paragraph 32 of the Commercial List Statement.
33. RCR ~~does not~~ admits paragraph 33 of the Commercial List Statement.
34. In response to paragraph 34 of the Commercial List Statement, RCR:
- (a) ~~relies on the said document for its full terms and effect~~ admits that by the 3 May 2017 Presentation, it made statements to the effect pleaded in subparagraphs 34.1 to 34.3 inclusive, 34.5 and 34.6;
 - (a1) as to subparagraph 34.4, says that by the 3 May 2017 Presentation, it stated that its strategic objectives included a focus on new market sectors, including renewables and energy;
 - (a2) admits that the above-mentioned statements were made to the Affected Market by or on behalf of RCR;
 - (a3) will rely on the entirety of the 3 May 2017 Presentation at trial; and
 - (b) otherwise ~~does not admit the balance of~~ denies the paragraph.

(C) 11 August 2017 Announcement

35. RCR admits paragraph 35 of the Commercial List Statement.
36. RCR ~~does not~~ admits paragraph 36 of the Commercial List Statement.
37. ~~RCR does not admit~~ In response to paragraph 37 of the Commercial List Statement, RCR:
- (a) admits that the 11 August 2017 Announcement included statements attributed to Dalgleish to the effect pleaded in subparagraphs 37.1 to 37.3 inclusive;
 - (b) will rely on the entirety of the 11 August 2017 Announcement at trial; and
 - (c) otherwise denies the paragraph.
38. In response to paragraph 38 of the Commercial List Statement, RCR:
- (a) ~~relies on the said document for its full terms and effect~~ refers to and repeats its response to paragraph 37 of the Commercial List Statement;

- (a1) admits that the 11 August 2017 Announcement included statements to the effect pleaded in subparagraphs 38.2 and 38.3;
- (a2) admits that the statements referred to in subparagraphs 37(a) and 38 (a1) above were made to the Affected Market by or on behalf of RCR;
- (a3) will rely on the entirety of the 11 August 2017 Announcement at trial; and
- (b) ~~otherwise does not admit the balance of~~ denies the paragraph.

(D) 24 August 2017 Announcements

39. RCR admits paragraph 39 of the Commercial List Statement.

40. RCR admits paragraph 40 of the Commercial List Statement.

41. RCR ~~does not admit~~ admits paragraph 41 of the Commercial List Statement.

42. ~~RCR does not admit~~ In response to paragraph 42 of the Commercial List Statement, RCR:

- (a) admits that the 24 August 2017 Announcements and the FY17 Managing Director's Report included statements attributed to Dalgleish to the effect pleaded in subparagraphs 42.1, 42.2, 42.5, 42.6, 42.8, 42.9, 42.10 and 42.11;
- (b) as to subparagraph 42.3, admits that the 24 August 2017 Audio Recording included a statement by Dalgleish that RCR had now half a gigawatt of solar projects under construction;
- (c) as to subparagraph 42.4:
 - (i) admits that the 24 August 2017 Audio Recording included a statement by Dalgleish that he thought there was significant growth in the large-scale solar market to come; and
 - (ii) admits that the 24 August 2017 ASX Announcement included a statement attributed to Dalgleish that RCR was in a strong position to capitalise on the substantial growth across its end-markets, particularly the solar market;
- (d) as to subparagraph 42.7, admits that the 24 August 2017 ASX Announcement included a statement attributed to Dalgleish that RCR expected to experience continued strong growth through FY18;

- (e) will rely on the entirety of the 24 August 2017 Announcements at trial; and
- (f) otherwise denies the paragraph.

43. In response to paragraph 43 of the Commercial List Statement, RCR:

- (a) relies on the said documents for their full terms and effect refers to and repeats its response to paragraph 42 of the Commercial List Statement;
 - (a1) admits that the 24 August 2017 ASX Announcement included statements:
 - (i) that RCR was on track to deliver further revenue and earnings growth in FY18;
 - (ii) that RCR was well-positioned for revenue and earnings growth in FY18;
 - (iii) that RCR was currently positioned as the market leader in the engineering, procurement and construction of large-scale solar projects; and
 - (iv) to the effect pleaded in subparagraph 43.4;
 - (a2) admits that the statements referred to in subparagraphs 42(a) to (d) and 43(a1) above were made to the Affected Market by or on behalf of RCR;
 - (a3) will rely on the entirety of the 24 August 2017 Announcements at trial; and
- (b) otherwise does not admit the balance of denies the paragraph.

(E) 30 August 2017 Cleansing Notice

- 44. RCR admits paragraph 44 of the Commercial List Statement.
- 45. RCR admits paragraph 45 of the Commercial List Statement.
- 46. RCR admits paragraph 46 of the Commercial List Statement.
- 47. RCR admits paragraph 47 of the Commercial List Statement.

(F) 22 February 2018 Announcements

- 48. RCR admits paragraph 48 of the Commercial List Statement.
- 49. RCR admits paragraph 49 of the Commercial List Statement.
- 50. RCR ~~does not admit~~ paragraph 50 of the Commercial List Statement.

51. ~~RCR does not admit~~ In response to paragraph 51 of the Commercial List Statement, RCR:
- (a) admits that the 22 February 2018 Announcements included statements attributed to Dalgleish to the effect pleaded in subparagraphs 51.1, 51.3, 51.4 and 51.5;
 - (b) admits that the 22 February 2018 ASX Announcement included a statement attributed to Dalgleish that RCR's cash flows had improved significantly over the past year, and combined with RCR's successful capital raising, RCR now had a record \$84.7 million in net cash;
 - (c) will rely on the entirety of the 22 February 2018 Announcements at trial; and
 - (d) otherwise denies the paragraph.
52. In response to paragraph 52 of the Commercial List Statement, RCR:
- (a) ~~relies on the said documents for their full terms and effect~~ refers to and repeats its response to paragraph 51 of the Commercial List Statement;
 - (a1) admits that the 22 February 2018 ASX Announcement and the HY18 Financial Report included statements:
 - (i) to the effect pleaded in subparagraph 52.4, save that the stated expectation was of the delivery of revenue and earnings growth 'into' FY19;
 - (ii) to the effect pleaded in subparagraph 52.7;
 - (iii) that RCR's increase in revenue can predominately be attributed to the procurement and construction phase on a number of large-scale solar farms;
 - (iv) that RCR's net cash of up to \$84.7 million supported a growing pipeline in renewable energy, rail and transport; and
 - (v) that RCR's success in the renewable energy sector during the past year and securing over 850 MWac of renewable energy projects were expected to contribute strongly to RCR's continuing growth momentum;
 - (a2) admits that the statements referred to in subparagraphs 51(a), 51(b) and 52(a1) above were made to the Affected Market by or on behalf of RCR;
 - (a3) will rely on the entirety of the 22 February 2018 Announcements at trial; and

(b) otherwise ~~does not admit the balance of~~ denies the paragraph.

(G) 30 July 2018 Trading Halt and suspension

53. RCR admits paragraph 53 of the Commercial List Statement.

54. RCR admits paragraph 54 of the Commercial List Statement.

55. In response to paragraph 55 of the Commercial List Statement, RCR:

(a) admits that on 7 August 2018 it requested an extension of the voluntary suspension of its securities from quotation by way of a communication to the ASX entitled 'Business update, leadership change and extension of voluntary suspension';

(a1) admits that its request was granted by the ASX;

(b) admits that its communication to the ASX ~~contained on 7 August 2008~~ included a statements as contended to the effect pleaded in subparagraph 55.2 of the Commercial List Statement; and

(c) otherwise ~~does not admit~~ denies the paragraph.

(H) 28 August 2018 disclosures

56. RCR admits paragraph 56 of the Commercial List Statement.

57. RCR admits paragraph 57 of the Commercial List Statement.

58. RCR ~~does not admit~~ admits paragraph 58 of the Commercial List Statement.

59. In response to paragraph 59 of the Commercial List Statement, RCR:

(a) ~~relies on the said documents for their full terms and effect~~ admits that the 28 August 2018 Announcements stated to the effect, and it was the fact that:

(i) in relation to the Project:

(A) there had been external delays, which resulted in extension of time submissions;

(B) there were materially worse sub-surface ground conditions than were allowed for in the tender estimate for the Project, which caused an underestimation of site piling requirements;

- (C) there had been continuous re-planning of construction due to the interdependence with piling;
- (D) the matter referred to in subparagraph (i)(C) above was compounded by adverse weather conditions in relation to the Project, increasing subcontractor costs (both people and planned) and logistics costs; and
- (E) there had been significant cost overruns due to the compounding project-specific issues described in subparagraphs (i)(A) to (i)(D) above;
- (ii) as a result of the cost overruns that arose over the life of the Project, RCR had realised cumulative project write-downs of \$57 million from the tendered margin on the Project;
- (iii) RCR's underlying EBIT for FY18 was \$4.2 million;
- (iv) RCR's FY18 results included a statutory net loss after tax of \$16.1 million, which was largely driven by a cost overruns experienced on the Project;
- (v) in the previous 12 months, RCR's revenue had been largely derived from fixed price engineering, procurement and construction contracts:
 - (A) which exposed RCR to potential risks including project delays, unanticipated increases in the cost of delivering the project and higher working capital requirements in the latter later stages of the project; and
 - (B) under which cash receipts were dependent on certain milestones being met, which may cause timing differences from a cash collection point of view;
- (a1) will rely on the entirety of the 28 August 2018 Announcements at trial; and
- (b) otherwise does not admit the balance of ~~denies~~ the paragraph.

60. In response to paragraph 60 of the Commercial List Statement, RCR:

- (a) relies on the said documents for their full terms and effect ~~admits~~ subparagraph 60.1;
- (a1) as to subparagraph 60.2, says that the 28 August 2018 ASX Announcement stated that a large proportion of write-downs were only recently identified due to

the on-site procedures adopted by a limited number of site personnel at the Project, which had the effect of circumventing RCR's standard processes and project level systems relating to procurement commitments

(a2) as to subparagraph 60.3, says that the 28 August 2018 Investor Presentation stated that RCR had found that the nature of the conduct referred to in subparagraph 60(a1) above made it extremely difficult to accurately determine cost-to-date and forecast cost-to-complete on a timely basis;

(a3) admits subparagraph 60.4;

(a4) as to subparagraph 60.5, says that the 28 August 2018 ASX Announcement stated that:

(i) the board of directors of RCR was working with RCR's management to take immediate action to enhance the company systems and to reposition the company towards a more acceptable risk profile; and

(ii) an important element of RCR's near-term strategy was to focus on projects that use 'alliance style' contracting models, which are more working capital intensive, but offer a more favourable risk allocation to RCR as the contractor and should provide a higher degree of margin predictability relative to fixed price engineering, procurement and construction contracts;

(a5) will rely on the entirety of the 28 August 2018 Announcements at trial; and

(b) otherwise does not admit the balance of denies the paragraph.

61. RCR does not admit In response to paragraph 61 of the Commercial List Statement, RCR:

(a) admits that the 28 August 2018 ASX Announcement included statements attributed to James that:

(i) with the capital raising entitlement offer and support from RCR's finances announced today, RCR could move forward in a position of strength; and

(ii) the outlook for RCR remained positive;

(b) will rely on the entirety of the 28 August 2018 Announcements at trial; and

(c) otherwise denies the paragraph.

62. In response to paragraph 62 of the Commercial List Statement, RCR:

- (a) ~~relies on the said documents for their full terms and effect as to~~ subparagraphs 62.1 and 62.2, refers to and repeats its responses to paragraphs 59 to 61 inclusive of the Commercial List Statement;
- (a1) as to subparagraphs 62.3 and 62.4, admits that the 28 August 2018 ASX Announcement included statements that:
 - (i) with the support of its existing financiers and the underwritten capital raising entitlement offer, RCR was in a strong financial position, trading on a business as usual basis, and was well placed to deliver for its customers and shareholders; and
 - (ii) it was currently targeting 'FY19 Underlying EBIT' in the range of \$40 million to \$48 million under Accounting Standard AASB 15 for Revenue Recognition;
- (a2) admits that the statements referred to in subparagraphs were made to the Affected Market by or on behalf of RCR;
- (a3) will rely on the entirety of the 28 August 2018 Announcements at trial; and
- (b) otherwise does not admit the ~~balance of the~~ paragraph.

(I) Capital raising

63. In response to paragraph 63 of the Commercial List Statement, RCR:

- (a) ~~relies on the said documents for their full terms and effect as to~~ subparagraph 63.1, admits that on 28 August 2018, it announced:
 - (i) a \$100 million underwritten 1 for 1.65 pro-rata accelerated non-renounceable entitlement offer at a price of \$1.00 per new share (**2018 Capital Raising Offer**); and
 - (ii) that the entitlement offer would be used to strengthen RCR's balance sheet and address the financial impacts at the Project;
- (a1) admits subparagraph 63.2; and
- (b) ~~otherwise does not admit the balance of~~ denies the paragraph.

64. ~~In response to~~ RCR admits paragraph 64 of the Commercial List Statement, ~~RCR:~~

- (a) ~~relies on the 30 August 2018 ASX Announcement entitled "Successful Completion of Institutional Entitlement Offer" for its full terms and effect; and~~
- (b) ~~otherwise does not admit the balance of the paragraph.~~

(J) Share price decline

65. RCR admits paragraph 65 of the Commercial List Statement, but says this only occurred following the release by RCR of an announcement regarding completion of its institutional entitlement offer.
66. ~~RCR does not admit~~ In response to paragraph 66 of the Commercial List Statement, RCR:
- (a) admits that the prices at which its shares traded on the ASX on 30 August 2018 were substantially lower than they had been before trading in its shares was halted on 30 July 2018; and
- (b) otherwise denies paragraph.

(K) Voluntary administration and liquidation

67. RCR admits paragraph 67 of the Commercial List Statement.
68. In response to paragraph 68 of the Commercial List Statement, RCR:
- (a) admits that before the commencement of trading on 12 November 2018, at the request of RCR, its securities were placed in trading halt pending the release of an announcement by RCR;
- (a1) says that the closing price for RCR shares on 9 November 2018 was \$0.87; and
- (b) ~~otherwise does not admit the balance of the~~ denies paragraph.
69. In response to paragraph 69 of the Commercial List Statement, RCR:
- (a) admits that on 14 November 2018, at the request of RCR, its securities were suspended from quotation pending the release of an announcement by RCR regarding its earnings for FY19 and the associated consequences for its funding;
- (b) admits that in requesting the voluntary suspension, RCR stated to the ASX that it was in the process of further reviewing its earnings for FY19 and the associated consequences for its funding; and
- (c) ~~otherwise does not admit~~ denies the paragraph.

70. ~~In response to RCR admits paragraph 70 of the Commercial List Statement, RCR:~~
- ~~(a) admits that on 20 November, RCR requested an extension of the voluntary suspension of the Company's shares with immediate effect and stated to ASX that RCR was had been served with a shareholder class action proceeding in the Supreme Court of New South Wales;~~
 - ~~(b) otherwise does not admit the paragraph.~~
71. RCR admits paragraph 71 of the Commercial List Statement.
72. RCR admits paragraph 72 of the Commercial List Statement.
73. RCR admits paragraph 73 of the Commercial List Statement.
74. In response to paragraph 74 of the Commercial List Statement, RCR:
- ~~(a) relies on the admits that on 9 April 2019, the Liquidators published a document entitled "Update to Shareholders" in which they: for its full terms and effect~~
 - ~~(i) stated that as at that date, they did not believe that there would be sufficient recoveries to repay creditors in full and, on that basis, they did not expect there would be a return of capital to shareholders; and~~
 - ~~(ii) accordingly declared, pursuant to s 104.145 of the *Income Tax Assessment Act 1997* (Cth), that they had reasonable grounds to believe that there was no likelihood that shareholders of RCR would receive any distribution in respect of the shares they held in RCR; and~~
 - ~~(b) otherwise does not admit the balance of denies the paragraph.~~

V. INFORMATION OF WHICH RCR WAS AWARE

(A) EPC Solar Contract Risk Information

75. ~~RCR does not admit~~ In response to paragraph 75 of the Commercial List Statement, RCR:
- ~~(a) refers to and repeats its response to paragraph 20 of the Commercial List Statement;~~
 - ~~(b) admits it was aware of the principal terms and characteristics of the EPC Solar Contracts as and when they were entered; and~~
 - ~~(c) otherwise denies the paragraph.~~

(B) Ground Conditions Information

76. RCR ~~does not admit~~ paraphrase paragraph 76 of the Commercial List Statement.

77. RCR ~~does not admit~~ denies paragraph 77 of the Commercial List Statement.

(C) Project Issues Information

78. RCR ~~does not admit~~ In response to paragraph 78 of the Commercial List Statement, RCR:

- (a) refers to and repeats its response to paragraph 59 of the Commercial List Statement;
- (b) admits it was aware of the Project Issues before 28 August 2018;
- (c) says that from about late March 2018, it was aware that the following had been encountered in relation to the Project:
 - (i) materially worse sub-surface ground conditions than were allowed for in the tender estimate for the Project;
 - (ii) slow piling progress;
 - (iii) external delays; and
 - (iv) adverse weather conditions,

(Project Issues); and
- (d) otherwise denies the paragraph.

(D) Cost Overruns Information

79. RCR ~~does not admit~~ In response to paragraph 79 of the Commercial List Statement, RCR:

- (a) admits that before 28 August 2018, it was aware that it would incur or had incurred substantial cost overruns in relation to the Project, including by reason of the Project Issues;
- (b) says that in about May 2018, it became aware of cost overruns in relation to the Project in the amount of approximately \$25 million, including by reason of the Project Issues;

- (c) says that in about late July 2018, it became aware of further substantial cost overruns in relation to the Project; and
- (d) otherwise denies the paragraph.

(E) Write-downs Information

80. ~~RCR does not admit~~ In response to paragraph 80 of the Commercial List Statement, RCR:

- (a) admits that before 28 August 2018, it was aware that cost overruns in relation to the Project would result or had resulted in substantial write-downs from the tendered margin on the Project;
- (b) says that in about May 2018, it reduced its forecast margin on the Project to \$11.5 million by reason of the costs overruns referred to in subparagraph 79(b) above;
- (c) says in about late July 2018, it became aware that its forecast margin on the Project would be further reduced by reason of the further cost overruns referred to in subparagraph 79(c) above; and
- (d) otherwise denies the paragraph.

(F) FY18 Earnings Information

81. ~~RCR does not admit~~ In response to paragraph 81 of the Commercial List Statement, RCR:

- (a) admits that on 30 July 2018, it was aware that it was likely that RCR would not experience earnings growth in FY18, as forecast; and
- (b) otherwise denies the paragraph.

(G) FY19 Financial Information

82. ~~RCR does not admit~~ In response to paragraph 82 of the Commercial List Statement, RCR:

- (a) says on 28 August 2018, it released and published to the ASX:
 - (i) the 28 August 2018 Announcements; and
 - (ii) the FY18 Financial Report and the Prospectus;

- (b) says that RCR was aware of the facts and risks identified in the above-mentioned documents when they were released and published;
- (c) says each of the above-mentioned documents identified various:
 - (i) qualifications to statements made therein; and
 - (ii) risks associated with the business of and investment in RCR;
- (d) will rely on the entirety of the above-mentioned documents at trial; and
- (e) otherwise denies the paragraph.

VI. BREACH OF CONTINUOUS DISCLOSURE OBLIGATIONS

(A) EPC Solar Contract Risks Information Contravention

- 83. RCR ~~does not admit~~ denies paragraph 83 of the Commercial List Statement.
- 84. RCR ~~does not admit~~ denies paragraph 84 of the Commercial List Statement.
- 85. ~~RCR does not admit~~ In response to paragraph 85 of the Commercial List Statement, RCR:
 - (a) denies the paragraph; and
 - (b) will rely at trial on information which it disclosed to the ASX during the Relevant Period, including that disclosed at:
 - (i) pages 35 and 36 of its 2016 Annual Report; and
 - (ii) pages 35 and 36 of its 2017 Annual Report.

- 86. RCR ~~does not admit~~ denies paragraph 86 of the Commercial List Statement.

(B) Ground Conditions Information Contravention

- 87. ~~In response to~~ RCR denies paragraph 87 of the Commercial List Statement, ~~RCR:~~
 - ~~(a) refers to its response to paragraph 76 of the Commercial List Statement; and~~
 - ~~(b) otherwise does not admit the paragraph.~~
- 88. RCR ~~does not admit~~ denies paragraph 88 of the Commercial List Statement.
- 89. RCR ~~does not admit~~ denies paragraph 89 of the Commercial List Statement.

90. RCR ~~does not admit~~ denies paragraph 90 of the Commercial List Statement.

(C) Project Issues Information Contravention

91. ~~In response to~~ RCR denies paragraph 91 of the Commercial List Statement, ~~RCR:~~

(a) ~~refers to its response to paragraph 78 of the Commercial List Statement; and~~

(b) ~~otherwise does not admit the paragraph.~~

92. ~~RCR does not admit~~ In response to paragraph 92 of the Commercial List Statement, RCR:

(a) denies the paragraph; and

(b) otherwise refers to and repeats its response to paragraphs 78 and 91 of the Commercial List Statement.

93. RCR ~~does not admit~~ denies paragraph 93 of the Commercial List Statement.

94. RCR ~~does not admit~~ denies paragraph 94 of the Commercial List Statement.

(D) Cost Overruns Information Contravention

95. In response to paragraph 95 of the Commercial List Statement, RCR:

(a) refers to and repeats its response to paragraph 79 of the Commercial List Statement;

(a1) admits that the possible effect on FY18 earnings of the cost overruns referred to in subparagraph 79(c) above was Material Non-public Information;

(a2) says that on 30 July 2018, it announced to the Affected Market, and it was the fact, that RCR was requesting a trading halt of its shares with immediate effect as it expected to make an announcement to the market regarding its earnings for FY18;

(a3) says that on 1 August 2018, it announced to the Affected Market, and it was the fact, that:

(i) RCR was requesting a voluntary suspension of its shares with immediate effect as it was in the process of reviewing cost overruns that had recently been discovered on a project, which were in fact the cost overruns referred to in subparagraph 79(c) above;

- (ii) the cost overruns were expected to have a material negative impact on FY18 earnings; and
 - (iii) there was a need to undertake further work to assess the likely financial impact of the cost overruns;
- (a4) says that on 7 August 2018, it announced to the Affected Market, and it was the fact, that:
- (i) the cost overruns referred to in the announcement on 1 August 2018 occurred at a single project, nearing completion, which was in fact the Project;
 - (ii) RCR was requesting that its shares remain suspended from trading pending completion of the investigation of the likely financial impact of the cost overruns at the Project, which were expected to have a material negative impact on FY18 earnings;
 - (iii) there was a need to undertake further work to assess the likely financial impact of the cost overruns; and
- (b) ~~otherwise does not admit~~ denies the paragraph.
96. ~~RCR does not admit~~ In response to paragraph 96 of the Commercial List Statement, RCR:
- (a) denies the paragraph;
 - (b) otherwise refers to and repeats its response to paragraphs 79 and 95 of the Commercial List Statement;
 - (c) further says that on 28 August 2018, it published the 28 August 2018 Announcements, the terms of which will be relied on at trial; and
 - (d) says that its conduct as referred to in subparagraphs 95(a2) to (a4) and 96(c) above complied with RCR's Continuous Disclosure Obligations.
97. ~~RCR does not admit~~ In response to paragraph 97 of the Commercial List Statement, RCR:
- (a) denies the paragraph; and
 - (b) otherwise refers to and repeats subparagraphs 95(a2) to (a4) above.

98. RCR ~~does not admit~~ denies paragraph 98 of the Commercial List Statement.

(E) Write-downs Information Contravention

99. In response to paragraph 99 of the Commercial List Statement, RCR:

(a) assumes that the reference to 'Cost Overruns Information' is intended to read 'Write-downs Information' and refers to and repeats its response to paragraphs 80 and 95 of the Commercial List Statement; and

(b) otherwise ~~does not admit~~ denies the paragraph.

100. RCR ~~does not admit~~ In response to paragraph 100 of the Commercial List Statement, RCR:

(a) denies the paragraph;

(b) otherwise refers to and repeats its response to paragraphs 80 and 99 of the Commercial List Statement;

(c) further says that on 28 August 2018, it published the 28 August 2018 Announcements, the terms of which will be relied on at trial; and

(d) says that its conduct as referred to in subparagraphs 95(a2) to (a4) and 100(c) above complied with RCR's Continuous Disclosure Obligations.

101. RCR ~~does not admit~~ In response to paragraph 101 of the Commercial List Statement, RCR:

(a) denies the paragraph; and

(b) otherwise refers to and repeats subparagraphs 95(a2) to (a4) above.

102. RCR ~~does not admit~~ denies paragraph 102 of the Commercial List Statement.

(F) FY18 Earnings Information Contravention

103. In response to paragraph 103 of the Commercial List Statement, RCR:

(a) refers to and repeats its response to paragraphs 81 and 95 of the Commercial List Statement; and

(b) otherwise ~~does not admit~~ denies the paragraph.

104. ~~RCR does not admit~~ In response to paragraph 104 of the Commercial List Statement, RCR:
- (a) denies the paragraph;
 - (b) otherwise refers to and repeats its response to paragraphs 81 and 103 of the Commercial List Statement;
 - (c) further says that on 28 August 2018, it published the 28 August 2018 Announcements, the terms of which will be relied on at trial; and
 - (d) says that its conduct as referred to in subparagraphs 95(a2) to (a4) and 104(c) above complied with RCR's Continuous Disclosure Obligations.
105. ~~RCR does not admit~~ In response to paragraph 105 of the Commercial List Statement, RCR:
- (a) denies the paragraph; and
 - (b) otherwise refers to and repeats subparagraphs 95(a2) to (a4) above.

106. ~~RCR does not admit~~ denies paragraph 106 of the Commercial List Statement.

(G) FY19 Financial Information Contravention

107. In response to paragraph 107 of the Commercial List Statement, RCR:
- (a) refers to and repeats its responses to paragraph 82 of the Commercial List Statement; and
 - (b) otherwise ~~does not admit~~ denies the paragraph.
108. ~~RCR does not admit~~ denies paragraph 108 of the Commercial List Statement.
109. ~~RCR does not admit~~ In response to paragraph 109 of the Commercial List Statement, RCR:
- (a) says that, in the period from 28 August 2018 to 12 November 2018, it made various announcements to ASX, including on 30 October 2018:
 - (i) an announcement publishing the address made by RCR's Chairman at RCR's 2018 Annual General Meeting; and
 - (ii) an announcement publishing a 'CEO's Presentation' for RCR's 2018 Annual General Meeting, including a section headed 'FY19: Update':

- (b) admits that other than information disclosed in the above-mentioned announcements, it did not tell the ASX of the FY19 Financial Information before the end of the Relevant Period; and
- (c) otherwise does not admit the paragraph.

110. RCR ~~does not admit~~ denies paragraph 110 of the Commercial List Statement.

(H) The Continuous Disclosure Contraventions were continuing

111. RCR ~~does not admit~~ denies paragraph 111 of the Commercial List Statement.

VII. MISLEADING AND DECEPTIVE CONDUCT OF RCR

(A) Additional RCR public statements

112. In response to paragraph 112 of the Commercial List Statement, RCR:

- (a) relies on the said documents referred to in Schedule 1 to the Commercial List Statement for their full terms and effect admits that in its 2016 Annual Report, RCR made the statements set out in subparagraphs 2.1 to 2.4 inclusive and subparagraphs 7.1 to 7.3 inclusive of Schedule 1 to the Commercial List Statement (**Schedule 1**);
- (a1) denies that it made a statement as set out in subparagraph 2.5 of Schedule 1 in its 2016 Annual Report;
- (a2) admits its 2016 Annual Report contained a representation to the effect stated in subparagraph 2.6 of Schedule 1;
- (a3) admits that in its 2017 Annual Report, RCR made the statements set out in subparagraphs 4.1 to 4.4 inclusive and subparagraphs 8.1 to 8.4 inclusive of Schedule 1;
- (a4) denies that it made a statement as set out in subparagraph 4.5 of Schedule 1 in its 2017 Annual Report;
- (a5) admits its 2017 Annual Report contained a representation to the effect stated in subparagraph 4.6 of Schedule 1;
- (a6) admits its Continuous Disclosure Policy made the statements set out in subparagraphs 6.1 and 6.2 of Schedule 1;

(a7) admits that the statements made in the 2016 Annual Report and the 2017 Annual Report were published to the Affected Market; and

(b) otherwise does not admit the ~~balance of the~~ paragraph.

(B) Continuous Disclosure RCR Representation

113. RCR ~~does not admit~~ denies paragraph 113 of the Commercial List Statement.

114. RCR ~~does not admit~~ denies paragraph 114 of the Commercial List Statement.

115. RCR ~~does not admit~~ denies paragraph 115 of the Commercial List Statement.

116. RCR ~~does not admit~~ denies paragraph 116 of the Commercial List Statement.

117. RCR ~~does not admit~~ denies paragraph 117 of the Commercial List Statement.

118. RCR ~~does not admit~~ denies paragraph 118 of the Commercial List Statement.

(GC) Risk Management RCR Representation

119. RCR ~~does not admit~~ denies paragraph 119 of the Commercial List Statement.

120. RCR ~~does not admit~~ denies paragraph 120 of the Commercial List Statement.

121. RCR ~~does not admit~~ denies paragraph 121 of the Commercial List Statement.

122. RCR does not admit paragraph 122 of the Commercial List Statement.

123. RCR ~~does not admit~~ denies paragraph 123 of the Commercial List Statement.;

124. RCR ~~does not admit~~ denies paragraph 124 of the Commercial List Statement.

(D) 23 February 2017 RCR Conduct

125. RCR ~~does not admit~~ In response to paragraph 125 of the Commercial List Statement, RCR:

(a) refers to and repeats its response to paragraphs 31, 75 and 85 of the Commercial List Statement; and

(b) otherwise denies the paragraph.

126. RCR does not admit paragraph 126 of the Commercial List Statement.

127. ~~RCR does not admit~~ In response to paragraph 127 of the Commercial List Statement,
RCR:

(a) denies the paragraph; and

(b) otherwise refers to and repeats its response to paragraphs 31, 75 and 85 of the Commercial List Statement.

128. ~~RCR does not admit~~ denies paragraph 128 of the Commercial List Statement.

(E) 3 May 2017 RCR Conduct

129. ~~RCR does not admit~~ In response to paragraph 129 of the Commercial List Statement,
RCR:

(a) refers to and repeats its response to paragraphs 34, 75 and 85 of the Commercial List Statement; and

(b) otherwise denies the paragraph.

130. RCR does not admit paragraph 130 of the Commercial List Statement.

131. ~~RCR does not admit~~ In response to paragraph 131 of the Commercial List Statement,
RCR:

(a) denies the paragraph; and

(b) otherwise refers to and repeats its response to paragraphs 34, 75 and 85 of the Commercial List Statement.

132. ~~RCR does not admit~~ denies paragraph 132 of the Commercial List Statement.

(F) 11 August 2017 RCR Conduct

133. ~~RCR does not admit~~ In response to paragraph 133 of the Commercial List Statement,
RCR:

(a) refers to and repeats its response to paragraphs 38, 75 and 85 of the Commercial List Statement; and

(b) otherwise denies the paragraph.

134. RCR does not admit paragraph 134 of the Commercial List Statement.

135. ~~RCR does not admit~~ In response to paragraph 135 of the Commercial List Statement,
RCR:

(a) denies the paragraph; and

(b) otherwise refers to and repeats its response to paragraphs 38, 75 and 85 of the Commercial List Statement.

136. ~~RCR does not admit~~ denies paragraph 136 of the Commercial List Statement.

(G) 24 August 2017 RCR Conduct

137. ~~RCR does not admit~~ In response to paragraph 137 of the Commercial List Statement,
RCR:

(a) refers to and repeats its response to paragraph 43, 75 and 85 of the Commercial List Statement; and

(b) otherwise denies the paragraph.

138. RCR does not admit paragraph 138 of the Commercial List Statement.

139. ~~RCR does not admit~~ In response to paragraph 139 of the Commercial List Statement,
RCR:

(a) denies the paragraph; and

(b) otherwise refers to and repeats its response to paragraphs 43, 75 and 85 of the Commercial List Statement.

140. RCR does not admit paragraph 140 of the Commercial List Statement.

141. ~~RCR does not admit~~ denies paragraph 141 of the Commercial List Statement.

(H) 30 August 2017 RCR Conduct

142. ~~RCR does not admit~~ In response to paragraph 142 of the Commercial List Statement,
RCR:

(a) admits subparagraph 142.1; and

(b) otherwise does not admit the paragraph.

143. ~~RCR does not admit~~ denies paragraph 143 of the Commercial List Statement.

144. ~~In response to~~ RCR denies paragraph 144 of the Commercial List Statement, ~~RCR:~~

- (a) ~~refers to its response to paragraphs 75 and 81 of the Commercial List Statement;~~
- (b) ~~admits that the Cleansing Notice did not contain any information to the effect stated in paragraphs 75 and 81 of the Commercial List Statement; and~~
- (c) ~~otherwise does not admit the paragraph.~~

145. RCR ~~does not admit~~ denies paragraph 145 of the Commercial List Statement.

(I) 22 February 2018 RCR Conduct

146. RCR ~~does not admit~~ In response to paragraph 146 of the Commercial List Statement, RCR:

- (a) refers to and repeats its response to paragraphs 52, 75, 78, 79, 80 and 85 of the Commercial List Statement; and
- (b) otherwise denies the paragraph.

147. RCR does not admit paragraph 147 of the Commercial List Statement.

148. RCR ~~does not admit~~ In response to paragraph 148 of the Commercial List Statement, RCR:

- (a) denies the paragraph; and
- (b) otherwise refers to and repeats its response to paragraphs 52, 75, 78, 79, 80 and 85 of the Commercial List Statement.

149. RCR does not admit paragraph 149 of the Commercial List Statement.

150. RCR ~~does not admit~~ denies paragraph 150 of the Commercial List Statement.

(J) 28 August 2018 RCR Conduct

151. RCR ~~does not admit~~ In response to paragraph 151 of the Commercial List Statement, RCR:

- (a) refers to and repeats its response to paragraph 62 of the Commercial List Statement; and
- (b) otherwise denies the paragraph.

152. RCR does not admit paragraph 152 of the Commercial List Statement.

153. RCR does not admit-paragraph 153 of the Commercial List Statement.

154. RCR does not admit paragraph 154 of the Commercial List Statement.

VIII. MISLEADING CONDUCT OF DALGLEISH

(A) 23 February 2017 Dalgleish Conduct

155. ~~RCR does not admit~~ In response to paragraph 155 of the Commercial List Statement, RCR:

- (a) refers to and repeats its response to paragraphs 31, 75 and 85 of the Commercial List Statement; and
- (b) otherwise denies the paragraph.

156. RCR does not admit paragraph 156 of the Commercial List Statement as no allegation is made against RCR itself.

157. RCR does not admit paragraph 157 of the Commercial List Statement as no allegation is made against RCR itself.

158. RCR does not admit paragraph 158 of the Commercial List Statement as no allegation is made against RCR itself.

(B) 3 May 2017 Dalgleish Conduct

159. RCR does not admit paragraph 159 of the Commercial List Statement as no allegation is made against RCR itself.

160. RCR does not admit paragraph 160 of the Commercial List Statement as no allegation is made against RCR itself.

161. RCR does not admit paragraph 161 of the Commercial List Statement as no allegation is made against RCR itself.

162. RCR does not admit paragraph 162 of the Commercial List Statement as no allegation is made against RCR itself.

(C) 11 August 2017 Dalgleish Conduct

163. RCR does not admit paragraph 163 of the Commercial List Statement as no allegation is made against RCR itself.

164. RCR does not admit paragraph 164 of the Commercial List Statement as no allegation is made against RCR itself.

165. RCR does not admit paragraph 165 of the Commercial List Statement as no allegation is made against RCR itself.

166. RCR does not admit paragraph 166 of the Commercial List Statement as no allegation is made against RCR itself.

(D) 24 August 2017 Dalgleish Conduct

167. RCR does not admit paragraph 167 of the Commercial List Statement as no allegation is made against RCR itself.

168. RCR does not admit paragraph 168 of the Commercial List Statement as no allegation is made against RCR itself.

169. RCR does not admit paragraph 169 of the Commercial List Statement as no allegation is made against RCR itself.

170. RCR does not admit paragraph 170 of the Commercial List Statement.

171. RCR does not admit paragraph 171 of the Commercial List Statement as no allegation is made against RCR itself.

(E) 22 February 2018 Dalgleish Conduct

172. RCR does not admit paragraph 172 of the Commercial List Statement as no allegation is made against RCR itself.

173. RCR does not admit paragraph 173 of the Commercial List Statement as no allegation is made against RCR itself.

174. RCR does not admit paragraph 174 of the Commercial List Statement as no allegation is made against RCR itself.

175. RCR does not admit paragraph 175 of the Commercial List Statement.

176. RCR does not admit paragraph 176 of the Commercial List Statement as no allegation is made against RCR itself.

IX. MISLEADING CONDUCT OF JAMES

(A) 28 August 2018 James Conduct

177. RCR does not admit paragraph 177 of the Commercial List Statement as no allegation is made against RCR itself.

178. RCR does not admit paragraph 178 of the Commercial List Statement as no allegation is made against RCR itself.
179. RCR does not admit paragraph 179 of the Commercial List Statement ~~as no allegation is made against RCR itself.~~
180. RCR does not admit paragraph 180 of the Commercial List Statement as no allegation is made against RCR itself.
181. RCR does not admit paragraph 181 of the Commercial List Statement as no allegation is made against RCR itself.

X. SECTION 1041E CONTRAVENTION

182. RCR ~~does not admit~~ denies paragraph 182 of the Commercial List Statement.
183. RCR ~~does not admit~~ denies paragraph 183 of the Commercial List Statement.
184. RCR ~~does not admit~~ denies paragraph 184 of the Commercial List Statement.
185. RCR does not admit paragraph 185 of the Commercial List Statement as no allegation is made against RCR itself.
186. RCR does not admit paragraph 186 of the Commercial List Statement as no allegation is made against RCR itself.
187. RCR ~~does not admit~~ denies paragraph 187 of the Commercial List Statement.

XI CAUSATION, INCLUDING DIRECT (MARKET-BASED) CAUSATION

(A) Market Contraventions generally

188. ~~RCR does not admit~~ In response to paragraph 188 of the Commercial List Statement, RCR:
- (a) admits that the market for RCR shares was operated by ASX and regulated by, among other things, the ASX Listing Rules;
 - (b) admits that s 674(2) of the Corporations Act 2001 (Cth) applied to it;
 - (c) refers to and repeats its response to paragraphs 4 to 6 inclusive of the Commercial List Statement and does not otherwise admit that the plaintiffs acquired an interest in RCR shares during the Relevant Period; and
 - (d) otherwise denies the paragraph.

189. RCR ~~does not admit~~ denies paragraph 189 of the Commercial List Statement.
190. RCR ~~does not admit~~ denies paragraph 190 of the Commercial List Statement.
191. ~~RCR does not admit~~ In response to paragraph 191 of the Commercial List Statement, RCR:
- (a) refers to and repeats its response to paragraphs 43, 52, 62, 75 to 110 inclusive and 203 of the Commercial List Statement; and
 - (b) otherwise does not admit the paragraph.

192. RCR ~~does not admit~~ denies paragraph 192 of the Commercial List Statement.
193. RCR does not admit paragraph 193 of the Commercial List Statement.
194. RCR does not admit paragraph 194 of the Commercial List Statement.
195. RCR ~~does not admit~~ denies paragraph 195 of the Commercial List Statement.

(B) 30 August 2017 RCR Cleansing Notice Misleading Conduct Contravention – search

(i) No transaction

196. RCR ~~does not admit~~ denies paragraph 196 of the Commercial List Statement.

(ii) Market-based causation

197. RCR ~~does not admit~~ denies paragraph 197 of the Commercial List Statement.

(iii) Reliance

198. RCR does not admit paragraph 198 of the Commercial List Statement.

XII. LOSS AND DAMAGE

199. RCR ~~does not admit~~ denies paragraph 199 of the Commercial List Statement.

XIII. PROSPECTUS CONTRAVENTION

200. RCR admits paragraph 200 of the Commercial List Statement.

201. In response to paragraph 201 of the Commercial List Statement, RCR:

- (a) relies on the said document for its full terms and effect will rely on the entirety of the Independent Auditor's Report on the FY18 Financial Report at trial; and

(b) ~~otherwise does not admit the balance of~~ admits the paragraph.

202. In response to paragraph 202 of the Commercial List Statement, RCR:

(a) ~~relies on the Prospectus for its full terms and effect as to subparagraph 202.1,~~
admits that the Prospectus stated to the effect that RCR remained ideally
positioned in markets which included the renewable sector;

(a1) as to subparagraph 202.2, admits that the Prospectus stated that the Project had
experienced cost overruns due to several project-specific issues;

(a2) as to subparagraph 202.3 and 202.4, admits that the Prospectus stated to the
effect that:

(i) the completion of the 2018 Capital Raising Offer would enable RCR to
avoid the risk of breaching financial covenants under its facility agreement
following release of its FY18 Financial Report; and

(ii) the audit opinion in relation to RCR's FY18 Financial Report was modified,
but not qualified, in respect of a matter, which would be resolved by
completion of the 2018 Capital Raising Offer;

(a3) will rely on the entirety of the Prospectus at trial; and

(b) ~~otherwise does not admit the balance of~~ denies the paragraph.

203. ~~RCR does not admit~~ In response to paragraph 203 of the Commercial List Statement,
RCR:

(a) refers to and repeats its response to paragraph 202 of the Commercial List
Statement; and

(b) otherwise does not admit the paragraph.

204. RCR does not admit paragraph 204 of the Commercial List Statement.

205. ~~RCR does not admit~~ In response to paragraph 205 of the Commercial List Statement,
RCR:

(a) will rely on the entirety of the Prospectus and the FY18 Financial Report at trial;
and

(b) otherwise does not admit the paragraph.

206. RCR does not admit paragraph 206 of the Commercial List Statement.

207. RCR does not admit paragraph 207 of the Commercial List Statement.

(A) Causation

(i) No transaction

208. RCR does not admit paragraph 208 of the Commercial List Statement.

(ii) Market-based causation

209. RCR does not admit paragraph 209 of the Commercial List Statement.

210. RCR does not admit paragraph 210 of the Commercial List Statement.

(iii) Reliance

211. RCR does not admit paragraph 211 of the Commercial List Statement.

(B) Loss and Damage

212. RCR does not admit paragraph 212 of the Commercial List Statement.

D. QUESTIONS APPROPRIATE FOR REFERRAL TO A REFEREE

There are no questions appropriate for referral to a referee.

**E. A STATEMENT AS TO WHETHER THE PARTIES HAVE ATTEMPTED MEDIATION;
WHETHER THE PARTY IS WILLING TO PROCEED TO MEDIATION AT AN
APPROPRIATE TIME**

The parties have not attempted to mediate. RCR is willing to proceed to mediation at an appropriate time.

SIGNATURE OF LEGAL REPRESENTATIVE

This commercial list response does not require a certificate under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014.

Signature of legal representative
Capacity
Date of signature


Solicitor
19 December 2019