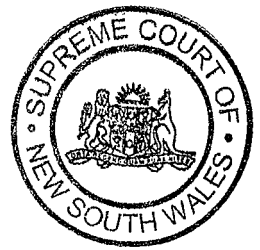


FILED

28 JUN 2019



Form 3A (version 7)
UCPR 6.2

FURTHER AMENDED COMMERCIAL LIST STATEMENT

COURT DETAILS

Court Supreme Court of New South Wales
Division Equity Division
List Commercial List
Registry Sydney
Case number 2018/371447

TITLE OF PROCEEDINGS

Plaintiff **Richmond Valley Council**

Defendant **Jardine Lloyd Thompson Pty Ltd**
ABN 69 009 098 864

FILING DETAILS

Filed for **Richmond Valley Council, Plaintiff**
Legal representative Michelle Fox
Quinn Emanuel Urquhart & Sullivan
Legal representative reference 06975-00004
Contact name and telephone Michelle Fox, 02 9146 3500
Contact email michellefox@quinnemanuel.com

TYPE OF CLAIM

Commercially misleading conduct

Insurance

A. NATURE OF DISPUTE

- 1 This is a representative proceeding brought by the Plaintiff on behalf of itself and Group Members (as defined in Part C below), each of whom are local councils constituted in the State of New South Wales to whom the Defendant provided insurance broking services during the Relevant Period (as defined in Part C below).
- 2 The Plaintiff alleges that:
 - (a) the Defendant advised or recommended that the Plaintiff and Group Members obtain Property and/or Public Liability and Professional Indemnity insurance through a scheme known as "Statewide Mutual" (as defined in Part C below);

- (b) it and the Group Members did obtain such insurance as a result of the Defendant's advice or recommendations;
 - (c) the amounts payable by it and Group Members to obtain such insurance through Statewide Mutual exceeded the rates that were reasonably available from alternative underwriters or providers in the market;
 - (d) the Defendant (amongst other things) failed to make any, or (if any) reasonable, efforts to obtain on behalf of the Plaintiff and each of the Group Members suitable Property and/or Public Liability and Professional Indemnity insurance at the best premium rates that were reasonably available to each of them in the market; and
 - (e) the Defendant therefore breached the general law and contractual duties which it owed to the Plaintiff and each Group Member to exercise reasonable care and skill in the performance of its broking services and in the provision of recommendations and advice.
- 3 Further, the Plaintiff alleges that the Defendant breached fiduciary duties owed to the Plaintiff and each Group Member in making recommendations or in placing or renewing insurance through Statewide Mutual in circumstances where there was a conflict between:
- (a) the Defendant's financial interest in earning fees and commissions for services it provided to Statewide Mutual; and
 - (b) the interests of the Plaintiff and Group Members in obtaining insurance at the best premium rates that were reasonably available to each of them in the market.
- 4 The Plaintiff says that it and Group Members suffered loss or damage as a result of the breaches of duty described above, and/or that the Defendant is liable to account for profits made from the breaches of fiduciary duty.

B. ISSUES LIKELY TO ARISE

The questions of law or fact common to the claims of the Group Members are as follows (in respect of the Relevant Period, as defined in paragraph 2(a) below):

- 1 whether the Defendant owed the Plaintiff and each Group Member the general law duty pleaded in paragraph 13 below;

- 2 whether the broking services contracts pursuant to which the Defendant provided
services to the Plaintiff and each Group Member contained the implied term
pleaded in paragraph 15 below;
- 3 whether the amounts that the Plaintiff and each Group Member paid in order to
obtain or renew insurance through Statewide Mutual exceeded the premium rates
that were reasonably available from alternate underwriters or providers in the
market;
- 4 whether the breaches of the general law duty and implied term pleaded at paragraph
17 below occurred;
- 5 whether the Defendant owed the Plaintiff and each Group Member the fiduciary
duties pleaded in paragraph 19 below;
- 6 what fees and commissions were received by the Defendant in consideration for,
and in connection with, the performance of services for Statewide Mutual;
- 7 whether the breaches of fiduciary duty alleged at paragraph 24 below occurred;
- 8 quantification of damages and/or equitable compensation;
- 9 further or alternatively, is an account of profits available and, if so, what is the
appropriate measure for that remedy.

C. PLAINTIFF'S CONTENTIONS

Parties and Group Members

- 1 The Plaintiff (**Richmond Valley**) is and has at all material times been:
- (a) a council constituted by the *Local Government Act 1993* (NSW) (**LGA**);
 - (b) a body politic of the State with perpetual succession and the legal capacity and powers of an individual; and
 - (c) able to commence proceedings on its own behalf against the Defendant for the purposes of section 158(1) of the *Civil Procedure Act 2005* (NSW) (**CPA**).

Particulars

- (i) LGA, ss 218A, 219, 220.
- (ii) Minute for the Executive Council: Local Government Act 1993 Amalgamation of Areas of Casino and Richmond River, signed and sealed by the NSW Minister for Local Government on 9 February 2000.

- 2 Richmond Valley brings this proceeding as a representative proceeding pursuant to ss 157 and 158 of the *CPA*, on its own behalf and on behalf of each council constituted by the LGA:
- (a) to which the Defendant (**JLT**) provided insurance broking services at any time during the period from 1 January 2009 to 3 December 2018 (**Relevant Period**);
 - (b) which, at any time during the Relevant Period, obtained Property and/or Public Liability and Professional Indemnity insurance through the "NSW Local Government (Jardine Lloyd Thompson) Mutual Liability Scheme" (**Statewide Mutual**); and
 - (c) which has, as at the date of filing the Further Amended Commercial List Statement, consented in writing to being a group member in this proceeding, (collectively, **Group Members**).
- 3 Statewide Mutual was established pursuant to a "Deed Establishing the NSW Local Government (Jardine Lloyd Thompson) Mutual Liability Scheme" made by JLT and certain Members, dated 22 March 1994 (as amended from time to time) (**Establishment Deed**).
- 4 As at the date of the commencement of this proceeding, seven or more NSW Local Councils have claims against JLT arising out of the circumstances pleaded herein.
- 5 JLT is and was at all material times a company, duly incorporated and able to be sued in its corporate name and style.

JLT as insurance broker

- 6 At all material times during the Relevant Period, JLT carried on business as an insurance broker.
- 7 At all material times during the Relevant Period, JLT was and held itself out to:
- (a) Richmond Valley; and
 - (b) each of the Group Members,
- as:
- (c) one of the largest insurance brokers in Australia and the world;
 - (d) possessed of the expertise to deliver the most comprehensive range of insurance and risk solution products and services available to local government authorities across Australia; and

- (e) capable of ensuring that councils receive a well designed insurance programme at a competitive premium cost.

Particulars

- (i) See, for example, in relation to Richmond Valley:
- (A) Renewal Report – Richmond Valley Council, 26 June 2009, prepared by JLT, pp. 1-2.
 - (B) Renewal Report – Richmond Valley Council, 22 June 2010, prepared by JLT, pp. (i), 1-2.
 - (C) Renewal Report – Richmond Valley Council, 29 June 2011, prepared by JLT, pp. (i), 2.
 - (D) Renewal Report – Richmond Valley Council, 27 June 2012, prepared by JLT, pp. 1, 3-4.
 - (E) Renewal Report – Richmond Valley Council, 25 June 2013, prepared by JLT, pp. 1, 3-6.
 - (F) Renewal Report – Richmond Valley Council, 27 June 2014, prepared by JLT, pp. 1, 3, 6.
 - (G) Renewal Report - Richmond Valley Council, 26 June 2015, prepared by JLT, pp. 1, 3-4, 7.
 - (H) Renewal Report - Richmond Valley Council, 24 June 2016, prepared by JLT, pp. 1, 3, 5, 9.
- (ii) Further particulars to be provided prior to trial.

8 At all material times during the Relevant Period, JLT subscribed to and held itself out to:

- (a) Richmond Valley; and
- (b) each of the Group Members,

as being a subscriber to the Code of Practice of the National Insurance Brokers Association (**NIBA Code**) (previously called the General Insurance Broker's Code of Practice).

Particulars

- (i) The NIBA Code is and was in writing, being the NIBA Insurance Brokers Code of Practice, 2007 (**2007 NIBA Code**) and the NIBA Insurance Brokers Code of Practice, 1 January 2014 (**2014 NIBA Code**).
- (ii) The terms of the 2007 and 2014 NIBA Code will be relied upon at trial as if they were fully set forth herein.
- (iii) JLT – Our Commitment to You And Financial Services Guide, March 2014, p. 7.
- (iv) JLT – Our Commitment to You And Financial Services Guide, December 2015, p. 7.

- (v) JLT – Our Commitment to You And Financial Services Guide, December 2017, p. 11.
- (vi) See further, in relation to Richmond Valley, for example:
 - (A) Renewal Report – Richmond Valley Council, 26 June 2009, prepared by JLT, p. 31.
 - (B) Renewal Report – Richmond Valley Council, 22 June 2010, prepared by JLT, p. 33.
 - (C) Renewal Report – Richmond Valley Council, 29 June 2011, prepared by JLT, p. 37.
 - (D) Renewal Report – Richmond Valley Council, 27 June 2012, prepared by JLT, p. 42.
 - (E) Renewal Report – Richmond Valley Council, 25 June 2013, prepared by JLT, p. 48.
 - (F) Renewal Report – Richmond Valley Council, 27 June 2014, prepared by JLT, p. 68.
 - (G) Renewal Report - Richmond Valley Council, 26 June 2015, prepared by JLT, p. 53.
 - (H) Renewal Report - Richmond Valley Council, 24 June 2016, prepared by JLT, p. 69.
- (vii) Further particulars to be provided prior to trial.

9 During the Relevant Period, JLT provided insurance broking services to:

- (a) Richmond Valley; and
- (b) each Group Member,

including by designing and providing advice with respect to its annual insurance programme and placing or arranging its Property and/or Public Liability and Professional Indemnity insurance with Statewide Mutual (**Broking Services**).

Particulars

- (i) JLT provided Broking Services to Richmond Valley in respect of its Property and Public Liability and Professional Indemnity insurance for each of the insurance years ending in June 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017.
- (ii) The insurance broking services provided by JLT to Richmond Valley are described in and evidenced by:
 - (A) Richmond Valley Council Insurance Declarations prepared by JLT and provided to Richmond Valley in 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016.
 - (B) Richmond Valley Council Renewal Reports prepared by JLT and provided to Richmond Valley in about June 2009, June 2010, June 2011, June 2012, June 2013, June 2014, June 2015 and June 2016.

- (C) Richmond Valley Council Summary of Insurances prepared by JLT and provided to Richmond Valley in about July 2011, July 2012, July 2013 and July 2014.
- (D) Invoices issued to Richmond Valley Council for insurances placed with Statewide Mutual (including Property and Public Liability and Professional Indemnity Insurance) and for insurances placed outside Statewide Mutual (in which case the payments were to be made to an account in the name of JLT) provided to Richmond Valley in about June or July 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016.
- (E) JLT Financial Services Guides prepared by JLT and provided to Richmond Valley March 2014 and December 2015.

(iii) Further particulars to be provided prior to trial.

10 In the course of providing the Broking Services during the Relevant Period, JLT advised or recommended that:

- (a) Richmond Valley; and
- (b) each Group Member,

obtain or renew its Property and/or Public Liability and Professional Indemnity insurance through Statewide Mutual (**Recommendations**).

Particulars

- (i) In the case of Richmond Valley, JLT made the Recommendations:
 - (A) by preparing and providing to Richmond Valley:
 - a. Richmond Valley Council Insurance Declarations prepared by JLT and provided to Richmond Valley in 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016;
 - b. Richmond Valley Council Renewal Reports prepared by JLT and provided to Richmond Valley in about June 2009, June 2010, June 2011, June 2012, June 2013, June 2014, June 2015 and June 2016;
 - (B) orally, in meetings that occurred at least annually with representatives of Richmond Valley; and
 - (C) by omitting to offer, recommend or identify any alternative Property and/or Public Liability and Professional Indemnity insurance policy, arrangement or underwriter besides Statewide Mutual.
- (ii) Further particulars to be provided prior to trial.

11 During the Relevant Period and as a result of the Recommendations:

- (a) Richmond Valley; and

(b) each of the Group Members,

instructed or authorised JLT to place or arrange its Property and/or Public Liability and Professional Indemnity insurance with Statewide Mutual.

Particulars

- (i) In the case of Richmond Valley, these instructions were provided by Richmond Valley signing and returning an authorisation form for the relevant year.
- (ii) Further particulars to be provided prior to trial.

JLT's breach of duty and/or contract

12 At all material times during the Relevant Period:

(a) JLT had knowledge of the market for Property and/or Public Liability and Professional Indemnity insurance which Richmond Valley and the Group Members lacked, including knowledge as to the terms and premium rates that were reasonably available from underwriters or insurance providers in that market; and

(b) JLT knew and intended that:

- (i) Richmond Valley; and
- (ii) each of the Group Members,

would or were likely to act upon the Recommendations by authorising JLT to place or arrange their Property and/or Public Liability and Professional Indemnity insurance with Statewide Mutual.

13 In the premises, JLT owed:

- (a) Richmond Valley; and
- (b) each Group Member,

a duty under the general law to exercise reasonable care and skill in providing the Broking Services and making the Recommendations.

14 Further or in the alternative to paragraph 13 above, JLT provided the Broking Services and made the Recommendations to:

- (a) Richmond Valley; and
- (b) each Group Member,

pursuant to separate contracts for services (**Broking Services Contracts**).

Particulars

- (i) The Broking Services Contracts were made by JLT's conduct in offering to obtain or renew contracts of insurance on behalf of Richmond Valley and each Group Member and the acceptance of those offers by Richmond Valley and each Group Member authorising or instructing JLT to do so.
- (ii) In the case of Richmond Valley:
 - (A) the offers to obtain or renew contracts of insurance were made by way of the:
 - a. Richmond Valley Council Insurance Declarations prepared by JLT and provided to Richmond Valley in 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016; and
 - b. Richmond Valley Council Renewal Reports prepared by JLT and provided to Richmond Valley in about June 2009, June 2010, June 2011, June 2012, June 2013, June 2014, June 2015 and June 2016.
 - (B) in relation to Richmond Valley's acceptance of those offers, particular (i) to paragraph 11 is repeated.
- (iii) Further particulars to be provided prior to trial.

15 It was an implied term of the Broking Services Contracts that JLT would exercise reasonable care and skill in providing the Broking Services and making the Recommendations.

16 At all material times during the Relevant Period, the amounts that:

- (a) Richmond Valley; and
- (b) each Group Member,

was required to pay in order to obtain or renew its Property and/or Public Liability and Professional Indemnity insurance through Statewide Mutual exceeded the premium rates that were reasonably available from alternate underwriters or providers in the market.

Particulars

- (i) For example, in relation to Richmond Valley:
 - (A) the contribution paid by Richmond Valley for Property insurance (inclusive of GST) procured through Statewide Mutual for:
 - a. the 2010 year was \$348,701.63 (less a "Property Mutual Rebate" of \$10,978.84 and less a "Claims Experience Discount" of \$ 9,064.41);
 - b. the 2011 year was \$428,276.09 (less a "Statewide Property Mutual Rebate" of \$38,274.28);

- c. the 2012 year was \$406,838.91 (less a "Property Claims Experience Discount" of \$28,750.40);
 - d. the 2013 year was \$373,611.24 (less a "Claims Experience Discount" of \$11,981.71);
 - e. the 2014 year was \$347,940.02;
 - f. the 2015 year was \$353,144.00;
 - g. the 2016 year was \$292,287.29 (less a "Return Contribution" of \$39,828.16); and
 - h. the 2017 year was \$216,507.39,
- while the premium paid for Property insurance (exclusive of GST) procured through AON for:
- i. the 2018 year was \$102,062; and
 - j. the 2019 year was \$149,893;

(B) the contribution paid by Richmond Valley for Public Liability and Professional Indemnity Insurance (inclusive of GST) procured through Statewide Mutual for:

- a. the 2010 year was \$350,911.00 (less a "Risk Management Incentive Bonus" of \$15,670.60);
 - b. the 2011 year was \$350,911.00 (less a "Risk Management Incentive Dividend" of \$17,242.43);
 - c. 2012 year was \$350,911.00 (less a "Risk Management Incentive Dividend" of \$19,758.61);
 - d. the 2013 year was \$363,192.50 (less a "Risk Management Incentive Dividend" of \$20,844.01);
 - e. the 2014 year was \$375,540.00 (less a "Statewide Liability Risk Management Incentive Bonus" of \$16,565.59);
 - f. the 2015 year was \$384,177.42 (less a "Statewide Risk Management Incentive" of \$18,801.05 and less an "Equity Distribution" of \$25,983.02, totalling \$44,784.07);
 - g. the 2016 year was \$393,397.68;
 - h. the 2017 year was \$400,478.84,
- while the premium paid for Public Liability and Professional Indemnity Insurance (exclusive of GST) procured through AON for:
- i. the 2018 year was \$182,890; and
 - j. the 2019 year was \$155,453 .

(ii) Further particulars, including by way of expert evidence, will be provided prior to trial.

17 In breach of the duty pleaded in paragraph 13 and/or the Implied Term pleaded in paragraph 15 above, JLT:

- (a) failed to make any, or (if any) reasonable, efforts to obtain on behalf of:
 - (i) Richmond Valley; and
 - (ii) each of the Group Members,suitable Property and/or Public Liability and Professional Indemnity insurance at the best premium rates that were reasonably available to each of them in the market;
- (b) made the Recommendations to:
 - (i) Richmond Valley; and
 - (ii) each of the Group Members,and placed or renewed their Property and/or Public Liability and Professional Indemnity insurance with Statewide Mutual:
 - (iii) in the circumstances pleaded in paragraph 16 above; and
 - (iv) in circumstances where JLT had no reasonable grounds to believe that the contributions payable to Statewide Mutual were lower than or reasonably competitive with the premium rates that were available to Richmond Valley and each of the Group Members in the market;
- (c) failed to recommend or identify to:
 - (i) Richmond Valley; and
 - (ii) each of the Group Members,any alternative underwriter or provider of suitable Property and/or Public Liability and Professional Indemnity insurance besides Statewide Mutual;
- (d) did not make any, or (if any) reasonable, efforts on behalf of:
 - (i) Richmond Valley; and
 - (ii) each of the Group Members,to request, solicit, negotiate or obtain from any alternative underwriter or provider of suitable Property and/or Public Liability and Professional Indemnity insurance besides Statewide Mutual a quotation, offer or terms for such insurance at lower premium rates than those payable to Statewide Mutual;
- (e) failed to request, solicit or procure, on behalf of:
 - (i) Richmond Valley; and

- (ii) any of the Group Members,
a competitive quotation for, or offer of, suitable Property and/or Public Liability and Professional Indemnity insurance from an underwriter or provider besides Statewide Mutual; and
- (f) failed to advise:
 - (i) Richmond Valley; and
 - (ii) each of the Group Members,
of:
 - (iii) the circumstances pleaded in paragraph 16 above; and
 - (iv) the fact that JLT had not requested or solicited a quotation, offer or terms for suitable Property and/or Public Liability and Professional Indemnity insurance from any alternative underwriter or provider besides Statewide Mutual.

18 By reason of the breaches of duty and/or contract pleaded in paragraph 17 above:

- (a) Richmond Valley; and
 - (b) each of the Group Members,
- has suffered loss or damage.

Particulars

- (i) The loss or damage suffered is equivalent to the value of the opportunity to obtain suitable Property and/or Public Liability and Professional Indemnity insurance from alternative underwriters or providers besides Statewide Mutual, at the best premium rates that were reasonably available to Richmond Valley and each of the Group Members in the market.
- (ii) The value of that opportunity is equal to the difference between:
 - (A) the amounts paid by Richmond Valley and each Group Member to Statewide Mutual during the Relevant Period, for their Property and/or Public Liability and Professional Indemnity insurance; and
 - (B) the amount that would have been paid by Richmond Valley and each Group Member to alternative underwriters or providers during the Relevant Period, but for JLT's breach of duty and/or contract,
subject to any adjustment the Court finds necessary.
- (iii) Richmond Valley paid a total of \$5,736,826.01 to Statewide Mutual during the Relevant Period for their Property and/or

Public Liability and Professional Indemnity insurance, comprising (inclusive of GST):

- (A) \$699,612.63 paid in or around July 2009, in respect of the 2010 year, \$348,701.63 of which was on account of Property insurance and \$350,911.00 of which was on account of Public Liability and Professional Indemnity insurance;
 - (B) \$779,187.09 paid in or around July 2010, in respect of the 2011 year, \$428,276.09 of which was on account of Property insurance and \$350,911.00 of which was on account of Public Liability and Professional Indemnity insurance;
 - (C) \$757,749.91 paid in or around July 2011 (and further in July 2012), in respect of the 2012 year, \$406,838.91 of which was on account of Property insurance and \$350,911.00 of which was on account of Public Liability and Professional Indemnity insurance;
 - (D) \$736,803.74 paid in or around July 2012, in respect of the 2013 year, \$373,611.24 of which was on account of Property insurance and \$363,192.50 of which was on account of Public Liability and Professional Indemnity insurance;
 - (E) \$723,480.02 paid in or around July 2013, in respect of the 2014 year, \$347,940.02 of which was on account of Property insurance and \$375,540.00 of which was on account of Public Liability and Professional Indemnity insurance;
 - (F) \$737,321.42 paid in or around July 2014, in respect of the 2015 year, \$353,144.00 of which was on account of Property insurance and \$384,177.42 of which was on account of Public Liability and Professional Indemnity insurance;
 - (G) \$685,684.97 paid in or around July 2015, in respect of the 2016 year, \$292,287.29 of which was on account of Property insurance and \$393,397.68 of which was on account of Public Liability and Professional Indemnity insurance;
 - (H) \$616,986.23 paid in or around July 2016, in respect of the 2017 year, \$216,507.39 of which was on account of Property insurance and \$400,478.84 of which was on account of Public Liability and Professional Indemnity insurance.
- (iv) Richmond Valley received a total of \$273,743.11 from Statewide Mutual for rebates and distributions for their Property and/or Public Liability and Professional Indemnity insurance for the Relevant Period (inclusive of GST).

- (v) Further particulars to be provided prior to trial.

JLT's breaches of fiduciary duty

19 Further or in the alternative, as an insurance broker providing the Broking Services and making the Recommendations, JLT owed:

- (a) Richmond Valley; and
 (b) each of the Group Members,

the following fiduciary duties:

- (c) a duty to refrain from pursuing or advancing JLT's own interests, in circumstances where there existed a conflict or a significant possibility of conflict between its own interests and those of Richmond Valley or the Group Member (as the case may be); and
 (d) a duty to refrain from using JLT's position or knowledge resulting from its position as insurance broker, so as to obtain a benefit for itself or a third party or to cause detriment to Richmond Valley or the Group Member (as the case may be).

20 At all material times during the Relevant Period, JLT was appointed to perform and performed various functions and services for Statewide Mutual.

Particulars

Establishment Deed, esp. cll 2.4.3, 3.1.1, 4.1.1, 5.1, 6.2, 9.1.

21 At all material times during the Relevant Period, in consideration for performing services for Statewide Mutual, and for placing insurance or reinsurance on behalf of Statewide Mutual, JLT received fees and commissions.

Particulars

- (i) Establishment Deed, cl 11.1.
 (ii) Annual Reports for Statewide Mutual disclose that JLT was paid at least the following fees for its services in relation to the Public Liability Fund and Property Fund:

Year	Public Liability Fund	Property Fund
2010	\$5,512,500	\$4,710,675
2011	\$5,787,600	\$4,854,518
2012	\$5,993,269	\$4,908,451

2013	\$6,370,016	\$5,887,291
2014	\$6,686,409	\$5,839,112
2015	\$6,841,345	\$5,778,440
2016	\$7,003,328	\$5,731,575
2017	\$7,121,466	\$6,671,676

- (iii) Fees of as yet unknown amounts paid to JLT for its services in relation to the Public Liability Fund and Property Fund for the 2018 and 2019 insurance years.
- (iv) Commissions of as yet unknown amounts paid to JLT by underwriters or reinsurers of Statewide Mutual.
- (v) Further particulars will be provided after discovery.

22 By reason of the matters pleaded in paragraphs 20 and 21 above, a conflict existed between JLT's own financial interests in earning and continuing to earn fees and commissions for, or in connection with, services it provided to Statewide Mutual, and the interests of:

- (a) Richmond Valley; and
- (b) each Group Member,

in obtaining suitable Property and/or Public Liability and Professional Indemnity insurance at the best premium rates that were reasonably available to each of them in the market.

23 In making the Recommendations and in placing or renewing:

- (a) Richmond Valley's; and
- (b) each Group Member's,

Property and/or Public Liability and Professional Indemnity insurance with Statewide Mutual, JLT:

- (c) pursued or advanced its own interests in earning and continuing to earn fees and commissions; and
- (d) used its position or knowledge resulting from its position as their insurance broker for its own financial benefit and to the detriment of Richmond Valley and each Group Member.

24 The conduct of JLT pleaded in paragraph 23 above breached the fiduciary duties pleaded in paragraph 19 above.

25 By reason of the breaches of fiduciary duty pleaded in paragraph 24 above:

- (a) Richmond Valley; and
 - (b) each of the Group Members,
- has suffered loss or damage.

Particulars

The particulars to paragraph 18 above are repeated.

26 Further or alternatively:

- (a) JLT has earned profits from the breaches of fiduciary duty pleaded in paragraph 24 above; and
- (b) is liable to account for those profits to:
 - (i) Richmond Valley; and
 - (ii) each of the Group Members.

Particulars

Particulars will be provided following discovery and prior to trial.

27 Richmond Valley claims the relief set out in the Further Amended Summons for itself and on behalf of each of the Group Members.