

Federal Court of Australia
District Registry: New South Wales
Division: Commercial and Corporations

No: NSD741 of 2023

Australian Prudential Regulation Authority

Applicant

Andrew Morton Garrett

Respondent

ORDER

JUDGE: JUSTICE LEE

DATE OF ORDER: 26 July 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Within two days of this Order being served upon him, the Respondent cause to be published on the first page that a user views when he or she accesses:
 - (a) any current, proposed or future internet site that uses the names 'Dynamic Capital Bank', 'Banca Di Como', or 'Banque de Capital Dynamique' or any derivation thereof; and
 - (b) any other internet site controlled by the Respondent;a notice in the form set out in Schedule 1 hereto.
2. Until further order, the Respondent ensure that there is published on the first page that a user views when he or she accesses:

- (a) any current, proposed or future internet site that uses the names 'Dynamic Capital Bank', 'Banca Di Como', or 'Banque de Capital Dynamique' or any derivation thereof; and
- (b) any other internet site controlled by the Respondent;

a notice in the form set out in Schedule 1 hereto.

3. The time for service of:

- (a) the Originating Process filed 20 July 2023;
- (b) the Affidavit of Christopher Alexander Sheehan affirmed 18 July 2023;
- (c) the Exhibit CAS –1 filed 24 July 2023;
- (d) the Affidavit of Nicholas Hugh Palmer sworn 18 July 2023; and
- (e) the Concise Statement filed 20 July 2023;

(together, the **Originating Documents**)

be abridged to 4pm on 28 July 2023.

4. The matter be adjourned until _____ before this Honourable Court at which time the Applicant will apply for interlocutory injunctions in the terms of orders 1 and 2 of the Interlocutory Relief noted in the Originating Process filed 20 July 2023 to operate until the hearing and determination of this proceeding.

5. The Respondent pay the Applicant's costs of the interlocutory application.

6. Liberty to apply on 48 hours' notice.

SCHEDULE 1

PLEASE TAKE NOTE:

DYNAMIC CAPITAL BANK, BANCA DI COMO, AND BANQUE DE CAPITAL DYNAMIQUE are NOT authorised to carry on banking business in Australia. Amongst other activities which it is not authorised to do, it is not authorised by Australian law to receive moneys on deposit or lend moneys.

It is an offence under s 7 and s 66 of the Banking Act 1959 for a person to carry on banking business in Australia without authorisation.

It is an offence under s 8 and s 66 of the Banking Act 1959 for a corporation to carry on banking business in Australia without authorisation.

NEITHER DYNAMIC CAPITAL BANK, BANCA DI COMO, BANQUE DE CAPITAL DYNAMIQUE nor any associated entity has permission under the law of Australia to use the word 'bank', 'banking' or 'banker' or any other word or expression (whether or not in English) of like import, in connection with its business.

Note: Settlement and entry of orders is dealt with in O 36 of the Federal Court Rules