



## HIGH COURT OF AUSTRALIA

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#### Details of Filing

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IN THE HIGH COURT OF AUSTRALIA  
 SYDNEY REGISTRY

BETWEEN: **PRODUCTIVITY PARTNERS PTY LTD ACN 085 570 547**  
 First Appellant  
**SITE GROUP INTERNATIONAL LTD ACN 003 201 910**  
 Second Appellant  
 and  
**AUSTRALIAN COMPETITION AND CONSUMER COMMISSION**  
 First Respondent  
**BLAKE WILLS**  
 Second Respondent

### APPELLANTS' CHRONOLOGY

**Part I:** This chronology is in a form suitable for publication on the internet.

**Part II:** List of principal events leading to the litigation

	<b>Date</b>	<b>Event</b>	<b>Reference</b>
1.	30 Mar 2012	Captain Cook College (CCC) is approved by the Department of Education to offer courses to students through VET-FEE HELP (VFH).	CAB 48 TJ[145]; CAB 228 FJ[3]
2.	Apr 2013	Blake Wills commenced as the Chief Operating Officer (COO) of Site Group International Ltd (Site).	CAB 228 FJ[3]
3.	16 Jul 2014	Site acquires Productivity Partners Pty Ltd (PP), the operator of CCC.	CAB 48 TJ[145]; CAB 228, 237 FJ[3], [33]
4.	Jul 2014	Blake Wills becomes a member of the CCC Advisory Board.	CAB 46 TJ[131]; CAB 238 FJ[34]
5.	Jul 2014	CCC stops using a single external recruiter, NTD, under an exclusive arrangement and introduces an internal sales team, Learn2Earn.	CAB 49-50 TJ[148]-[151]; CAB 241 FJ[42]
6.	1 Nov 2014	Commencement of Earlier Period.	CAB 20 TJ[29]; CAB 265 FJ[107]
7.	Nov 2014	Campus Driven Withdrawal Policy implemented	CAB 53 TJ[164]
8.	15 and 17 Dec 2014	Meetings (attended by Blake Wills) regarding Sero Learning Health Check findings.	CAB 58 TJ[184], [185];

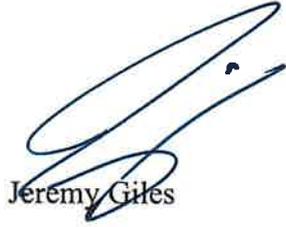
			CAB 30, 248, 347 TJ[60], [323(a)]
9.	19 Mar 2015	Email from the Assistant Minister for Education and Training to advise VET providers of changes to the VFH scheme, 'critical in protecting students', being made due to unethical behaviour by small group of providers and agents.	CAB 60 TJ[193]; CAB 251 FJ[65]
10.	27 Mar 2015	Kellie Goodwin (CCC Team Leader Corporate Services) emails Ms Edwards indicating that Campus Driven Withdrawal after a students' first census date were contrary to VFH rules.	CAB 54 TJ[165]
11.	15 Apr 2015	CCC Advisory Board meeting drew attention to lower conversion rates and declining enrolments.	CAB 68 TJ[224]; CAB 252 FJ[71]
12.	15 May 2015	CCC Advisory Board Meeting. Mr Cook reports significant decreases in enrolment numbers at Distance Campus.	CAB 68 TJ[224]
13.	16 Jun 2015	CCC's policy changed so that Campus Driven Withdrawals must occur before first census date.	CAB 54 TJ[166]-[168]; CAB 245 FJ[49]
14.	20 July 2015	Blake Wills' COO's report to Site board meeting noted the Assistant Minister had continued " <i>to introduce a number of changes to the operation of the VFH industry including improved student disclosure and capability to withdraw prior to census (which some providers hinder).</i> "	CAB 70 TJ[233]
15.	3 Aug 2015	Updated 'VET Administrative Information for Providers' booklet emailed to CCC, containing Frequently Asked Questions section with 'expectation' of student withdrawal prior to census if student not contactable or disengaged.	CAB 65 TJ[214]; CAB 251 FJ[68]
16.	18 Aug 2015	CCC Management Meeting Papers containing CEO Report stating College had received feedback from agents regarding enrolment process, new process included in flowchart and would commence 4 September.	CAB 70-71 TJ[236]-[239]; CAB 252, 334 FJ[72], [288]
17.	18 Aug 2015	Email to Blake Wills from Mr Cook identifying revenue continues below expectations due to lack of volume from channel agents and that agents provided feedback which was being fed into a revised enrolment process.	CAB 71 TJ[241]; CAB 253, 335 FJ[74], [289]
18.	18 Aug 2015	Email exchange between Mr Cook and Ms Edwards regarding enrolment procedures. Mr Cook identified that current procedure was not competitive and that agents were calling for more streamlined process to " <i>match that of our competitors</i> ". Ms Edwards spoke to the importance of a rigorous process and retaining	CAB 72 TJ[244],[245]; CAB 254 FJ [77]

		Campus Driven Withdrawals for students unable to be contacted by CCC	
19.	19 Aug 2015	CCC Management Meeting (attended by Blake Wills). Mr Cook advised CCC getting feedback from agents that enrolment process was too complex and were in process to streamline process. Also recorded that Mr Wills discussed that CCC's competitors had " <i>better admissions process</i> " (among other things).	CAB 73-74 TJ[249]-[252]; CAB 254, 335, 349, 351, 353 FJ [78], [290], [323(d)], [325(a)], [328(c)-(d)]
20.	19 Aug 2015	CCC Enrolment/Admissions process meeting. Evidence did not establish Blake Wills attended.	CAB 76 TJ[261]; CAB 255 FJ[82]
21.	20 Aug 2015	Email to Blake Wills from Mr Cook noting " <i>intense media scrutiny of the sector</i> " in late 2014 and early 2015 and that " <i>unscrupulous behaviour</i> " by co-providers and sales agents had required a focus on " <i>consumer protection, quality control and identity verification</i> ". Attached report references a review of CCC's competitors that had been undertaken by Blake Wills, highlighted areas of outperformance by competitors. Also acknowledged that there was a need to ensure " <i>appropriate measures are in place to ensure the quality of our services, and the protection of our customers</i> ".	CAB 62, 80-81 TJ[200], [278]-[280]; CAB 249, 257, 335, 351, 353 FC[62], [83], [291], [325(b)], [328(e)-(g)]
22.	Aug 2015	Abolition of Campus Driven Withdrawals announced in CCC's staff newsletter.	CAB 89 TJ[314]; CAB 258 FJ[85]
23.	6 Sep 2015	Earlier Period ends.	CAB 20 TJ[29]; CAB 265 FJ[107]
24.	7 Sep 2015	Relevant Period commences; revised enrolment and withdrawal processes were live.	CAB 20, 83 TJ[30], [285]; CAB 257, 265 FJ [84], [107]
25.	13 Sep 2015	Blake Wills sends an email to Mr Dawson, Mr Cook and others, in which he refers to a year to date loss of \$255,000 against a budget of \$681,000 profit.	CAB 91 TJ[325]; CAB 352 FJ[326]
26.	Mid-Sep 2015	New practice implemented whereby the admissions officer was required to flag any concern they had about the call or the student by marking the admissions sheet with a pink highlighter and placing it in a particular tray. The admissions sheet would be sent for review and " <i>the enrolment didn't happen until whatever the concern was resolved</i> ".	CAB 88 TJ[310]

27.	15 Sep 2015	Mr Cook sends an email to Mr Dawson and Vern Wills showing that applications for enrolment for 7-13 September 2015 have increased dramatically which he characterises as <i>“showing early signs of recovery”</i> .	CAB 92 TJ[327]; CAB 259, 336, 352 FJ[87], [292], [326]
28.	16 Sep 2015	CCC Management Meeting attended by Mr Cook and Blake Wills. Mr Cook <i>“advised the new enrolment system is working well, it presents well, increased headcount and have re-recruited old CAs”</i> . Minutes recorded that Khaled Akbery (Partnerships Manager) <i>“is on the road meeting with agents in Adelaide, Sydney and Melbourne to run through the new enrolment process.”</i>	CAB 92, 149, 150 TJ[329], [558], [561]; CAB 259, 336, 352 FJ[87], [292], [326]
29.	19 - 20 Sep 2015	Email exchange between Vern Wills, Mr Cook, Blake Wills and others, in which Mr Cook states that CCC had commenced a continuous improvement process in relation to course advisor training and that: <i>“while these adjustments in process are necessary given the current environment, they are adding to what is already a very robust and rigorous agent selection, on boarding, and monitoring process that we currently have in place”</i> .	CAB 63, 93 TJ[202], [332]-[334]; CAB 291, 325, 354 FJ[174], [257(b)], [328(i)]
30.	1 Oct 2015	Draft of an “Agent Management Review Report” circulated to Site management.	CAB 95 TJ[343]; CAB 349, 358 FJ[323(e)], [341(a)]
31.	20 Oct 2015	Email circulating management meeting papers to Blake Wills, Mr Cook and others, with attached CEO Report noting major traction with external brokers and Learn2Earn after introduction of improved enrolment process in early September 2015. The report also noted the introduction of <i>“further policies and procedures surrounding the monitoring of external brokers and have allocated 1 FTE to manage and monitor their performance, behaviour and activities.”</i>	CAB 96 TJ[346]; CAB 354 FJ[328(j)]
32.	21 Oct 2015	CCC Management Meeting attended by Blake Wills, Mohammed Akbery and Ms Edwards, discussed low levels of student engagement. Blake Wills proposed actions to be considered, including <i>“strategic recommendations to be put forward on improving student outcomes.”</i>	CAB 97, 99 TJ[348], [354]; CAB 261, 336, 349, 354, 358 FJ[95], [294], [323(f)], [328(k)], [341(b)]
33.	16 Nov 2015	Blake Wills' Short Term Strategy for CCC noted then current <i>“student participation”</i> was less than 20% login to ATLAS by week 7 of the course whereas targeted performance was 75%.	CAB 102 TJ[367]; CAB 262 FJ [96]

34.	18 - 19 Nov 2015	Blake Wills sends an email to Daniel Buonora (CCC Online Campus Manager) asking him for his projected/required numbers for early 2016 in the various staffing categories.	CAB 101-102 TJ[364]-[365]; CAB 262 FJ[96]
35.	20 Nov 2015	Blake Wills commenced role as acting CEO of Productivity Partners.	CAB 103 TJ[370]; CAB 228, 234, 238, 336, 373 FJ[3], [18], [34], [294], [398]
36.	Late Nov 2015 - Apr 2016	CCC undertakes a number of investigations into misconduct by course advisors and prepares reports detailing these investigations and their outcome (including cancelling enrolments, reversal of consumers VFH debts, offering scholarships and terminating external sales providers' contracts).	CAB 114-115, 115, 117, 118, 119, 121 TJ[423]-[425], [427], [437], [441], [445], [454]; CAB 270 FJ[119]
37.	18 Dec 2015	Department of Education sends a letter to CCC regarding the VFH Cap with consequence that CCC could not enrol more students and CCC ceased enrolling students in online course.	CAB 108,109 TJ[399], [401]; CAB 268, 372 FJ [115], [397]
38.	18 Dec 2015	Relevant Period ends.	CAB 20 TJ[30]; CAB 229, 265 FJ[4], [107]
39.	20 Jan 2016	Mr Cook returns from leave and Blake Wills ceases as acting CEO of CCC.	CAB 44 TJ[118], [370]; CAB 228, 238, 336, 373 FJ[3], [34], [294], [398]
40.	Jan 2016	Jo Solly (CCC Training and Development Officer) made contact with "a dozen students at most" and that the language skills of students in "some" instances were not sufficiently developed to be able to comprehend the course materials.	CAB 107 TJ[393] CAB 263 FJ[99]
41.	17 Feb 2016	CCC develops and implements a 'contact strategy' for purposes of engaging the student cohort.	CAB 111 TJ[408]-[409]; CAB 263, 299 FJ[100], [182(f)]
42.	Sep 2016	Period until which Productivity Partners claimed VET FEE HELP revenue from the Commonwealth (in respect of students enrolled during the Relevant Period and not otherwise withdrawn)	CAB 229 FJ[4]
43.	Oct 2017	Blake Wills ceased employment with Site.	CAB 44 TJ[118]; CAB 373 FJ[398]

Dated 2 November 2023



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