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**ENFORCEABLE UNDERTAKING**  
**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ACT**

**SECTION 93AA**

The commitments in this Enforceable Undertaking are offered to the Australian Securities and Investments Commission ("ASIC") by:-

Leigh Anthony Gardner  
62 Rosedale Grove  
South Frankston  
VICTORIA

**1. Background**

- 1.1 At all material times, Leigh Anthony Gardner was a proper authority holder of ABN AMRO Equities Australia Limited ("ABN") (the holder of a dealer's licence).
- 1.2 At 11.12am on 29 May 1998, the last trading day of the month, Mr Gardner received an order to buy 200,000 National Foods Ltd ("National Foods") shares at market.
- 1.3 During the course of 29 May 1998, and prior to the close of the market at 4.00pm, Mr Gardner caused 119,312 National Foods shares to be acquired for the ABN client at prices ranging from \$2.85 to \$2.92.
- 1.4 At 4.00pm on 29 May 1998, the price at which National Foods shares were trading was \$2.92.
- 1.5 As a result of instructions given at 4.03pm by Mr Gardner to an ABN AMRO SEATS operator a bid of \$3.06 was placed for 80,685 National Foods shares at 4.04pm in the match out. As a result of the Single Price Auction at the end of the match out period 39,119 National Foods shares were acquired, and the closing price for the shares that day was \$3.06.
- 1.6 On 10 July 1998 ASIC commenced an investigation to determine whether, in executing the order that he received on 29 May 1998, to purchase 200,000 National Foods shares, Mr Gardner contravened a provision of the Corporations Law.

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- 1.7 As a result of its investigation, ASIC was concerned that Mr Gardner may have contravened s998 of the Corporations Law by creating a false or misleading appearance with respect to the market for, or the price of, shares in National Foods.
- 1.8 On 30 July 1999, ASIC's Delegate made a banning order pursuant to section 829 of the Corporations Law prohibiting Mr Gardner for a period of four years from doing an act as a representative of a dealer.
- 1.9 On 30 August 1999, Mr Gardner applied to the Administrative Appeals Tribunal ("AAT") to review the decision of ASIC's Delegate.
- 1.10 Mr Gardner has now offered to ASIC the undertakings referred to below and has consented to an order of the AAT in the form of annexure 'A' to this enforceable undertaking.

## 2. Undertakings

Mr Gardner offers the following undertakings to ASIC pursuant to section 93AA of the Australian Securities and Investments Commission Act. Mr Gardner undertakes that:

- 2.1 For the period from 30 July 2000 to 30 April 2001, any client order he receives must and will be referred by him for execution to Mr Michael Christian, the Head of the Melbourne Equities desk; or to Mr Sandy Milne, Director, Institutional Equities; or to Mr Richard Balderstone, Director, Institutional Equities; or to Mr Mark Hendal, Director of Institutional Equities; or to Mr Richard Locke, Head of Sales Trading Sydney, and that he will not convey client orders directly to any SEATS operator or otherwise deal with any SEATS operators. In the event that any of the abovementioned supervisors leave ABN or are otherwise unavailable, another supervisor who has been previously accepted by ASIC in writing shall receive the referral from Mr Gardner and cause it to be executed.
- 2.2 He will pay ASIC \$9,760.75 within 14 days of the date of this undertaking, to cover ASIC's disbursements in relation to the investigation.
- 2.3 He will enrol in, attend and successfully complete the subject Securities Industry Law and Ethics ("the Subject"), which is part of the Securities Institute of Australia Graduate Diploma in Applied Finance and Investment. If Mr Gardner fails the Subject he will re-enrol in and attend it until such time as he successfully completes it. If Mr Gardner fails the Subject he is not in breach of his enforceable undertaking.

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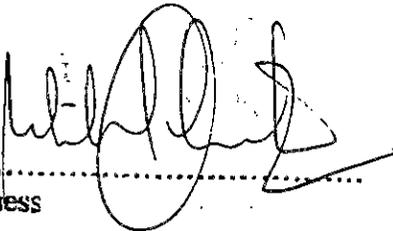
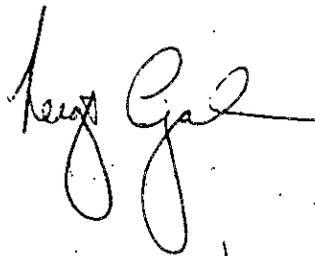
### 3. Acknowledgments

- 3.1 Mr Gardner acknowledges that ASIC:
- (a) may issue a media release referring to the terms of this Enforceable Undertaking and the concerns of ASIC which led to its execution. As a matter of courtesy ASIC will give Mr Gardner an opportunity to comment on the press release. The press release however remains ASIC's document. ASIC will consider any comments promptly provided to it by Mr Gardner but ASIC does not undertake to make changes in accordance with any of those comments;
  - (b) may from time to time publicly refer to this Enforceable Undertaking; and
  - (c) will make this Enforceable Undertaking available for public inspection.
- 3.2 Mr Gardner acknowledges that this Enforceable Undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this Enforceable Undertaking.
- 3.3 Mr Gardner acknowledges that ASIC's acceptance of an Enforceable Undertaking does not affect ASIC's power to investigate a contravention arising from future conduct, or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil order in respect thereof.
- 3.4 Mr Gardner acknowledges that this Enforceable Undertaking has no operative force until accepted by ASIC.

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SIGNED BY LEIGH ANTHONY GARDNER  
in the presence of



Witness

MICHAEL CHRISTIAN

Name (print)

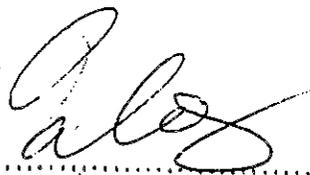
191 PAGE ST MIDDLE PARK VIC

Address

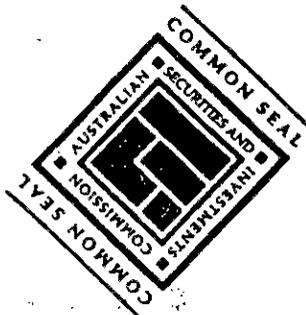
Stockbroker

Occupation

ACCEPTED BY THE AUSTRALIAN SECURITIES AND INVESTMENTS  
COMMISSION PURSUANT TO ASIC ACT S93AA BY ITS DULY  
AUTHORISED DELEGATE



Jan Redfern  
General Counsel  
NSW Operations



This 14<sup>th</sup> day of February 2000

0299112402

ADMINISTRATIVE APPEALS TRIBUNAL  
GENERAL ADMINISTRATIVE DIVISION

No V 1999/972

BETWEEN:

LEIGH ANTHONY GARDNER

Applicant

- and -

AUSTRALIAN SECURITIES AND  
INVESTMENTS COMMISSION

Respondent

MINUTE OF CONSENT ORDER

It is ordered by consent that the Applicant be subject to a banning order pursuant to Section 829 of the *Corporations Law* for a period of 12 months commencing on 30 July 1999 and ending on 29 July 2000.



Solicitors for Applicant



Solicitor for Respondent