

ENFORCEABLE UNDERTAKING

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

SECTION 93 AA

The commitments in this undertaking are offered to the Australian Securities and Investments Commission (ASIC) by:

Count Financial Group Pty Ltd (ACN 001 974 625)

Level 8

4 Martin Place

SYDNEY NSW 2000

1. BACKGROUND

- 1.1 ASIC conducted a national surveillance in October 1997 (**the surveillance**) of the operations of the Count Financial Group Pty Ltd (**Count**) relating to its obligations as a licensed securities dealer under the Corporations Law (**the Law**) to ensure adequate supervision and training of its authorised representatives. Count holds unrestricted dealers licence number 11050.
- 1.2 Under the Law, Corporations Regulation 7.3.02, amongst other regulations, is prescribed as a condition of a securities dealers licence. This condition requires a licensee to ensure that each of its authorised representatives are adequately supervised and trained in the performance of their duties.
- 1.3 ASIC considers the most effective way for a licensed securities dealer to ensure compliance with the Law and the conditions of its licence, including the condition imposed by Corporations Regulation 7.3.02, is to ensure there is an adequate and effective compliance program in place.
- 1.4 Following the surveillance, ASIC had some concerns in relation to Count's compliance program.
- 1.5 As a result of discussions between ASIC and Count after the surveillance, Count has implemented some further enhancements to its established compliance program for the purposes of ensuring compliance with the Law and licence conditions, including the licence condition imposed by Corporations regulation 7.3.02. A central aspect of Count's compliance program is the document known as the "Count Wealth Accountants Compliance Plan" dated March 1999 (**the Compliance Plan**). The Compliance Plan documents internal procedures designed to ensure compliance by Count and its representatives with relevant industry regulations (including the Law) and Count requirements.

- 1.6 Pursuant to section 786 of the Law, ASIC may, subject to a hearing, impose conditions and restrictions on a securities dealers licence in addition to those prescribed by the Law, at any time when the licence is in force.
- 1.7 In relation to the surveillance, ASIC has agreed to accept the commitments in this enforceable undertaking as an alternative to the exercise of the power referred to in paragraph 1.6 above.

2. UNDERTAKINGS

- 2.0 Pursuant to Section 93AA of the Australian Securities and Investments Commission Act, Count undertakes as follows:
- 2.1 Count will engage external professional compliance consultants, approved by ASIC, who will review, assess and report, in writing, on Count's compliance program. This assessment will include, but not be limited to, assessment of Count's adherence to the Compliance Plan as amended from time to time. Such review, assessment and reporting is to be conducted every 6 months for a period of 18 months from the date these undertakings take effect; and
- 2.2 Count will provide a copy of such reports referred to in paragraph 2.1 above and a current copy of the Compliance Plan to the New South Wales General Counsel of ASIC within 7 calendar days of the due date of the report; and
- 2.3 Count will implement those suggested recommendations made by the external compliance consultants referred to in paragraph 2.1 above, pursuant to, and within the time specified in, a written notice from ASIC.

3. ACKNOWLEDGEMENTS

- 3.1 Count acknowledges ASIC's concerns in relation to some aspects of Count's compliance program.
- 3.2 Count acknowledges that it has obtained legal advice in relation to the content and effect of this undertaking.
- 3.3 Count acknowledges that ASIC:
- (a) may issue a media release from the date this undertaking is executed by ASIC referring to the terms of this undertaking and the concerns of ASIC as expressed in this undertaking which led to its execution;
 - (b) may from time to time publicly refer to this undertaking; and
 - (c) will make this undertaking available for public inspection.
- 3.4 Count acknowledges that this undertaking in no way derogates from the rights and remedies available to ASIC, subject to paragraph 1.7 above, or any other person or entity arising from any conduct described in this undertaking.

- 3.5 Count acknowledges that ASIC's acceptance of an enforceable undertaking does not affect its power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary penalty order.
- 3.6 Count acknowledges that this undertaking has no operative force until accepted by ASIC.

The Common Seal of Count)
 Financial Group Pty Ltd)
 (ACN 001 974 625) was duly affixed)
 to this undertaking on May)
 1999 in the presence of)
 and the sealing is attested by:)

[Handwritten Signature]

Director

[Handwritten Signature]

Director/Secretary

**ACCEPTED BY THE AUSTRALIAN SECURITIES AND INVESTMENTS
 COMMISSION PURSUANT TO SECTION 93AA OF THE AUSTRALIAN
 SECURITIES AND INVESTMENTS COMMISSION ACT BY ITS DULY
 AUTHORISED DELEGATE**

Date: *1 June 1999*

[Handwritten Signature]
 Jan Redfern
 Regional General Counsel
 New South Wales Operations

