

## ENFORCEABLE UNDERTAKING

### AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

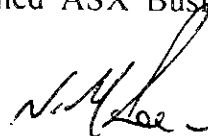
*Australian Securities and Investments Commission Act  
("ASC Law") Section 93AA*

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

Nicholas Robert McRae  
606/168 Kent Street  
SYDNEY NSW 2000

#### 1. BACKGROUND

- 1.1 ASIC has received information in relation to suspected contraventions of sections 995 and 998(1) of the Corporations Law in respect of trading in the securities of United Group Limited ("UCR") by Nicholas Robert McRae ("McRae"), a securities representative of Macquarie Equities Limited ("MEL") on 24 June 1999 ("the Information").
- 1.2 At all material times, McRae was the holder of a proper authority from MEL.
- 1.3 At 15:24 on 24 June 1999, trading in UCR was suspended pending the receipt of an announcement from United Group Limited. Trading was set to resume at 15:41.
- 1.4 Between 15:35:04 and 15:40:38 McRae caused 2 bid entries to be made and cancelled on the Stock Exchange Automated Trading System ("SEATS")("the Entries"):
- 1.5 At the time the Entries were made:
  - (a) McRae did not have and was not aware of a client order to buy UCR;
  - (b) McRae was not authorised to trade on behalf of MEL as principal; and
  - (c) MEL had an order from a client to sell 273,100 UCR over the course of 24 June 1999 at the best possible price. The order had been given to McRae for execution.
- 1.6 As a result of the Information, ASIC has reason to suspect that McRae:
  - (a) has contravened sections 995 and 998(1) of the Corporations Law;
  - (b) has as a securities representative of MEL contravened ASX Business Rules 2.2.4(1)(a):

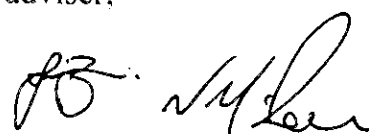


- (c) did not perform the duties of a securities representative efficiently, honestly and fairly; and
  - (d) will not in the future perform the duties of a securities representative efficiently, honestly and fairly.
- 1.7 ASIC has the power pursuant to section 829 of the Corporations Law to make a banning order against a natural person.
- 1.8 Section 830 of the Corporations Law provides that ASIC, after complying with section 837(2), may make a banning order to prohibit a person permanently, or for a specified period, from doing an act as:
- (a) a representative of a dealer; and/or
  - (b) a representative of an investment adviser.
- 1.9 MEL subsequently took action against McRae, including suspending him from 1 September 1999.
- 1.10 McRae, without any admission as to liability, acknowledges the concerns of ASIC and accordingly offers the undertakings set out in section 2 below.
- 1.11 In agreeing to accept the commitments in this Undertaking as an alternative to the exercise of the powers referred to in paragraphs 1.7 and 1.8 above, ASIC has had regard to the action taken by MEL referred to in paragraph 1.9 whereby McRae has already been suspended for a period of 5 months.

## 2. UNDERTAKINGS

Pursuant to section 93AA of the ASIC Law McRae gives the following undertakings to ASIC:

- 2.1 McRae will not for a period of 6 months commencing from the date of this undertaking:
- (a) do any act or engage in any conduct as a representative of a dealer (as defined by the Corporations Law from time to time);
  - (b) hold out that he is a representative of a dealer;
  - (c) hold a proper authority from a dealer;
  - (d) hold out that he holds a proper authority from a dealer;
  - (e) carry on the business of a securities dealer either as a director, partner, manager, servant, or agent;
  - (f) apply to ASIC for a dealer's licence;
  - (g) do any act or engage in any conduct as a representative of an investment adviser (as defined by the Corporations Law from time to time);
  - (h) hold out that he is a representative of an investment adviser;
  - (i) hold a proper authority from an investment adviser;



- (j) hold out that he holds a proper authority from an investment adviser;
  - (k) carry on the business of an investment adviser either as a director, partner, manager, servant, or agent; or
  - (l) apply to ASIC for an investment adviser's licence.
- 2.2 McRae will attend 80 percent of lectures, complete all course work and use his best efforts to achieve at least a passing grade in the Securities Industry Law and Ethics Course offered by Securities Institute of Australia and provide certification of his results to ASIC by 31 December 2000, to the New South Wales Director of Enforcement.


### 3. ACKNOWLEDGEMENTS

- 3.1 McRae acknowledges that ASIC:
- (a) may issue a media release on execution of this undertaking referring to its terms and the concerns of ASIC 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.
- 3.2 McRae acknowledges that this undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this undertaking.
- 3.3 McRae 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.
- 3.4 McRae acknowledges that this undertaking has no operative force until accepted by ASIC.

**SIGNED BY NICHOLAS ROBERT MCRAE**

in the presence of:



  
 \_\_\_\_\_  
 witness

TIM BREENE  
 \_\_\_\_\_  
 name (print)

GROUND FLOOR, 167  
 \_\_\_\_\_  
 address

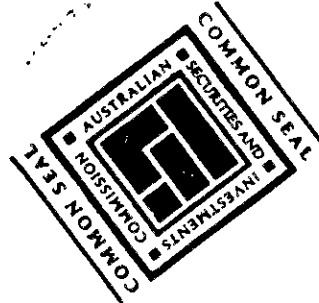
MACQUARIE ST SYDNEY  
 \_\_\_\_\_  
 address

SOLICITOR  
 \_\_\_\_\_  
 occupation

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



Jan Redfern  
General Counsel  
NSW Operations



This *27<sup>th</sup>* day of *February* 2000