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AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION ACT, 1989

UNDERTAKING TO
THE AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
GIVEN FOR THE PURPOSES OF SECTION 93AA

BY

CONNELLY TEMPLE LIMITED
ACN 003 359 251

AUSTRALIAN SECURITIES COMMISSION



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1. BACKGROUND

- 1.1 Connelly Temple Limited ("CT") is the trustee of a public offer superannuation fund, the Connelly Temple Public Superannuation Fund ("the Fund").
- 1.2 Membership of the Fund is offered to the public through a key features statement and customer information brochure ("the Offer Document").
- 1.3 Life and disability insurance is offered to prospective members of the Fund through the Offer Document.
- 1.4 The Offer Document dated 1 July 1998 states, on page 19, that members engaged in certain hazardous occupations and industries may have their insurance cover restricted or a benefit exclusion or premium loading applied.
- 1.5 The Offer Document dated 31 October 1999 states, on page 19, that members engaged in certain hazardous occupations and industries may have their insurance cover restricted or a benefit exclusion or premium loading applied. It also states that your premium rate may be higher than shown on page 20.
- 1.6 A financial services company complained to the Australian Securities & Investments Commission ("ASIC") that the information in the Offer Document in relation to insurance was misleading or deceptive.
- 1.7 ASIC sought information from CT and interviewed representatives of CT.
- 1.8 CT co-operated with ASIC in relation to ASIC's investigation of the complaint.
- 1.9 ASIC is of the view that the Offer Document is misleading in that premium loadings have been applied or insurance cover has been restricted in relation to members of the Fund whose occupations would not be regarded by the ordinary person as being hazardous.
- 1.10 CT has offered and ASIC has accepted the obligations in this enforceable undertaking.

2. UNDERTAKINGS

CT undertakes the following for the purposes of section 93AA of the ASIC Act.

2.1 CT will use its best endeavours to ensure that, in all Offer Documents that are printed after the date of this undertaking and are provided to prospective members of the Fund, the wording is altered to read:

"Members in certain occupations and industries may have their insurance cover restricted or a benefit exclusion applied. Please ask and we will advise whether your occupation falls within these occupations and industries."

2.2 CT will review its due diligence process in relation to Offer Documents to endeavour to avoid any form of misrepresentation occurring in the future. This will be achieved by:

- (1) undertaking a review of current due diligence processes to determine where they could be strengthened;
- (2) documenting procedures to reflect the amended processes; and
- (3) training relevant staff members in relation to the new procedures and legislative requirements which underpin them.

2.3 CT will review the applications for insurance made by members of the Fund after 30 June 1998 and will use its best endeavours to ensure that those members whose occupations are not hazardous within the ordinary meaning of that word, pay the standard premium rate and are not subject to any restrictions or exclusions. Best endeavours will include, but not be limited to:

- (1) a list of all persons, whose occupations were determined to be hazardous, to be compiled;
- (2) all the occupations of persons in the above list will be reviewed to determine whether their occupation is "hazardous" as per the industry accepted definition of "hazardous";
- (3) a refund of the difference between the premium charged and what would have been charged for those persons whose occupation was not "hazardous" pursuant to industry standards, will be offered.

2.4 Where it is established in the review that a premium loading should not have applied because the occupation is not hazardous, a refund to the member of the extra premiums that have been charged will be made by crediting that amount to the member's account in the Fund. Interest will be added to the amount refunded calculated at the net earning rate of the Fund during the period in which the extra premium was charged.

2.5 Where a member has been refused insurance after 30 June 1998 or has had an exclusion applied, the circumstances will be reviewed to establish whether the member is or has been working in an occupation which is not hazardous within the ordinary meaning of that word and if the conclusion is that the occupation is not hazardous, CT will use its best endeavours to have the insurance re-offered or the exclusion removed.