

ENFORCEABLE UNDERTAKINGSECTION 93AAAUSTRALIAN SECURITIES & INVESTMENTS COMMISSION ACT

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

Anthony Liney Taggart  
32 Holloway Road  
SANDRINGHAM VIC 3191

**1. BACKGROUND**

- 1.1 At all relevant times Anthony Liney Taggart ("Mr Taggart") was an accountant and a partner of the firm Smith Taggart, Chartered Accountants.
- 1.2 From June 1996 to August 1997 Mr Taggart recommended investments in Lateral Trading Ltd ("Lateral") to clients of Smith Taggart by:
  - (a) writing letters to his clients providing information about Lateral and recommending that they consider investing in Lateral;
  - (b) organising a meeting for the purpose of enabling the directors of Lateral to make a presentation to his clients;
  - (c) briefing other clients who were unable to attend the meeting with the directors of Lateral; and
  - (d) verbally informing some of his clients that Mr Taggart and his family had made a relatively substantial investment in Lateral and on that basis recommending to his clients that they consider investing in Lateral.
- 1.3 Mr Taggart provided a copy of Lateral's registered prospectus to each of the clients of Smith Taggart to whom he recommended investments in Lateral.
- 1.4 In formulating his recommendations to clients of Smith Taggart, Mr Taggart relied upon Lateral's registered prospectus and the financial material published by Lateral. In particular Mr Taggart relied on the statement by Lateral that "at all times 70% of the company's capital would be held on deposit with the company's trustee."
- 1.5 About 40 clients of Smith Taggart invested \$497,800 in redeemable preference shares issued by Lateral. Included in these clients were:
  - (a) members of Mr Taggart's family who invested \$60,000 in Lateral; and

- (b) a client who had previously invested \$100,000 in Lateral and who had initially introduced Mr Taggart to Lateral.
- 1.6 Mr Taggart states that all clients were advised that Smith Taggart may receive a referral fee in relation to any investment they made in Lateral on the recommendation of Mr Taggart.
- 1.7 Smith Taggart received \$9,956 from Lateral as commission for referring its clients to Lateral. This amount included \$1,200 as commission in relation to investments in Lateral by members of Mr Taggart's family.
- 1.8 At the time Mr Taggart recommended investments in Lateral he believed that this activity was incidental to his practice as an accountant and within the exemption of the requirement to hold an investment adviser licence.
- 1.9 ASIC has investigated the activities of the Mr Taggart in relation to suspected contraventions of section 780 and 781 of the *Corporations Law*.
- 1.10 As a result of its investigation, ASIC has formed the view that during the period June 1996 to August 1997 Mr Taggart carried on a securities business and an investment advice business in relation to investments in Lateral in contravention of sections 780 and 781 of the *Corporations Law* by reason of the facts set out above and in paragraph 2 below.
- 1.11 On 11 August 1999 ASIC made a banning order against Mr Taggart pursuant to sections 829 and 830 of the *Corporations Law* prohibiting him from doing an act as a representative of a securities dealer or an investment adviser for a period of 6 years.
- 1.12 On 8 September 1999 Mr Taggart made an application to the Administrative Appeals Tribunal for a review of ASIC's decision dated 11 August 1999 on the basis that it was wrong and the banning period was excessive.
- 1.13 Mr Taggart has offered this enforceable undertaking to facilitate the settlement of his application to the Administrative Appeals Tribunal and to avoid incurring any additional expenses in relation to the application.

## 2. CONCERNS OF ASIC

- 2.1 Mr Taggart has been carrying on a securities business and an investment advice business in relation to investments in Lateral.
- 2.2 From February 1987 until November 1998 Mr Taggart was a representative of R H Collins & Co Pty Ltd which held a licence to act as a securities dealer. However, at the time Mr Taggart recommended investments in Lateral, he was not acting in his capacity as a representative of R H Collins & Co Pty Ltd and

was not a representative of any other securities dealer or any investment adviser.

- 2.3 The conduct of Mr Taggart does not fall within the exception to the requirement to hold an investment adviser licence which operates where the advice provided is merely incidental to the practice of an accountant (section 77(5) of the *Corporations Law*).
- 2.4 Mr Taggart has admitted that by recommending investments in Lateral to the clients of Smith Taggart he carried on a securities business and an investment advice business and that he has contravened sections 780 and 781 of the *Corporations Law*.

### 3. UNDERTAKINGS

Mr Taggart gives the following enforceable undertakings to ASIC pursuant to section 93AA of the *Australian Securities and Investments Commission Act*.

- 3.1 Mr Taggart undertakes that he will consent to ASIC making a banning order pursuant to sections 829 and 830 of the *Corporations Law* prohibiting him from doing an act as a representative of a securities dealer or an investment adviser for the period of one (1) year from the date of this undertaking.
- 3.2 Mr Taggart undertakes that he will not hold a proper authority from, or act as a representative of, a securities dealer or an investment adviser for a further period of five (5) years from the date of the expiration of the banning order referred to in paragraph 3.1.
- 3.3 Mr Taggart undertakes that, within six (6) years from the date of this undertaking, he will complete the course offered by the Institute of Chartered Accountants which provides a specific qualification and designation for financial planning.
- 3.4 Mr Taggart undertakes to withdraw his application to the Administrative Appeals Tribunal to review the decision of ASIC.
- 3.5 Mr Taggart undertakes that, upon request, he will provide ASIC with all information in his possession, custody or control and all assistance he is reasonably able to provide in connection with, or arising out of any actions taken in connection with this undertaking.

### 4. ACKNOWLEDGMENTS

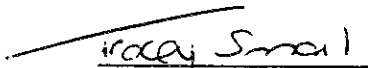
- 4.1 Mr Taggart acknowledges that he has had the opportunity to obtain legal advice in relation to the content and effect of this enforceable undertaking.

- 4.2 Mr Taggart acknowledges that ASIC:
- (a) will make this enforceable undertaking available for public inspection,
  - (b) may issue a media release on the execution of this enforceable undertaking referring to such terms that ASIC determines and which led to the execution of the enforceable undertaking; and
  - (c) may from time to time publicly refer to this enforceable undertaking.
- 4.3 Mr Taggart acknowledges that entering into this enforceable undertaking in no way derogates from the rights and remedies available to any person arising from any conduct described in this enforceable undertaking.
- 4.4 Mr Taggart further acknowledges that entering into this enforceable undertaking in no way derogates from the rights of ASIC relating to or arising from any conduct described in this enforceable undertaking.
- 4.5 Mr Taggart acknowledges that this enforceable undertaking has no operative force until accepted by ASIC.


Signed by ANTHONY  
LINEY TAGGART in  
the presence of )  
)  
)

  
.....  
Anthony Liney Taggart

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Name (Print)

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

  
.....  
Name A.J. ORCHARD

Position DIRECTOR ENFORCEMENT

This 23<sup>rd</sup> day of MAY 2000