



ENFORCEABLE UNDERTAKING

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Section 93AA Australian Securities and Investments Commission Act 1989

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

[REDACTED]

1. BACKGROUND

- 1.1 On 15 February 2000, Mr [REDACTED] caused a notice to be posted on the "Hot Tips" noticeboard of the HotCopper Website (the "Website Posting"). The Website Posting made certain representations in relation to the value of Coles Myer Ltd securities and derivatives.
- 1.2 HotCopper is an Australian online investment discussion forum in which subscribers are able to post and read information, commentary and opinions relating to traded securities.
- 1.3 The name provided as the author of the Website Posting was "Eck", and the return e-mail address provided was "deck@cml.com.au".
- 1.4 At the time of the Website Posting, the Chief Executive Officer of Coles Myer Ltd was Mr Dennis Eck.
- 1.5 ASIC has the following concerns:
- 1.5.1 that subscribers to the HotCopper Website may have been misled with respect to the authorship of the Website Posting and consequently the accuracy and reliability of the representations made in the Website Posting;
- 1.5.2 that subscribers may have been induced upon reading the Website Posting to buy, sell or hold securities in Coles Myer Ltd; and
- 1.5.3 that contraventions of sections 995, 999 and 1000 *Corporations Law* may have been committed.
- 1.6 Pursuant to section 1324 *Corporations Law*, ASIC may, amongst other things, apply for an injunction restraining a person from engaging in certain conduct and requiring the person to do an act.

*** NB: Identification details contained in this document have been deleted and are not available for publication.

- 1.7 [REDACTED] acknowledges ASIC's concerns referred to in paragraph 1.5 above and the potential detriment to the Australian securities markets such conduct may cause.
- 1.8 In acceptance of the above concerns, [REDACTED] has offered the undertakings set out in part 2, below.
2. UNDERTAKINGS
- 2.1 Pursuant to section 93AA ASC Law, [REDACTED] undertakes not to publish any article or information on the internet in relation to securities that is misleading or deceptive, or is likely to mislead or deceive, in respect of the identity of the author of the article or information.
- 2.2 Pursuant to section 93AA ASC Law, for a period of two years from the date ASIC accepts this enforceable undertaking, [REDACTED] undertakes to declare any interest, either direct or indirect, that he has in a security or securities when publishing any article or information on the internet relating to the said security or securities.
- 2.3 Pursuant to section 93AA ASC Law, [REDACTED] undertakes within fourteen (14) days of the date ASIC accepts this enforceable undertaking, to post on the HotCopper Website, under the login name "Moneyman", a copy of the Website Posting together with the following notice:

"IMPORTANT NOTICE

RETRACTION AND CLARIFICATION - COLES MYER LTD

On 15 February 2000, I posted the attached message on the HotTips section of the HotCopper Website ("the posting").

The Australian Securities and Investments Commission ("ASIC") identified me as the author of the posting and informed me of their concerns in relation to the posting. ASIC's concerns are that the notice is misleading and deceptive. Further, the notice may contravene sections 995, 999 and 1000 of the *Corporations Law* which deal with deceptive and misleading statements in relation to securities.

I wish to advise HotCopper subscribers that I have no connections or associations whatsoever with Coles Myer Ltd management or with Mr Dennis Eck, the CEO of Coles Myer Ltd. Moreover, the representations contained in the notice were not based on any information or opinions obtained from Coles Myer Ltd or its management.

I used the login name "Eck" and return e-mail address "deck@cml.com.au" in order to gain attention to the contents of the posting.

Following my discussions with ASIC, I have agreed to post this notice to clarify any confusion my original posting may have caused.

Moneyman"

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2.4 Pursuant to section 93AA ASIC Act, [REDACTED] undertakes to notify ASIC within 24 hours of having posted the notice referred to in paragraph 2.2 above.

3. ACKNOWLEDGEMENTS

3.1 [REDACTED] acknowledges that he has had the opportunity to obtain legal advice in relation to the content and effect of this undertaking.

3.2 [REDACTED] acknowledges that ASIC:

3.2.1 may issue a media release from the date this undertaking is executed by ASIC, referring to the terms of this undertaking and the concerns ASIC has expressed in this undertaking which has led to its execution;

3.2.2 may from time to time publicly refer to this undertaking; and

3.2.3 will make this undertaking available for public inspection.

3.3 [REDACTED] acknowledges that this undertaking in no way derogates from the rights and remedies available to ASIC or any other person or entity arising from any conduct described in this undertaking.

3.4 [REDACTED] acknowledges that this undertaking has no operative force until accepted by ASIC.

Signed this 12th day of July 2000 by [REDACTED] in the presence of:

[REDACTED SIGNATURE]

[REDACTED SIGNATURE]
Witness' signature

[REDACTED]
Name of witness (printed)

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:

A J Orchard
A J Orchard
Director, Enforcement
This 14th day of July 2000