

Australian Securities and Investments Commission

ENFORCEABLE UNDERTAKING

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ACT

SECTION 93AA

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

Asset Temporary Personnel Pty Limited ("ATP")	ACN 074 484 209
Asset Personnel (Victoria) Pty Limited ("AP")	ACN 074 747 587
Busina Pty Limited ("Busina")	ACN 082 934 432
Goldstern Pty Limited ("Goldstern")	ACN 082 934 361
Kenran Pty Limited ("Kenran")	ACN 082 934 183

("The Asset Group")

Ritva Kaarina Tillet

Kaius Patrick Cummins

Tristan Mark Cummins

Patrice Emmanuel Tillet

(collectively, "the Directors")

1. Background

- 1.1 The Asset Group operates as an employment agency in New South Wales and Victoria.
- 1.2 On 7 June 1996 Mark Cummins ("Cummins") and Ritva Tillet ("Tillet") were appointed as Directors of Asset A1 Superannuation Fund Pty Ltd ("Asset A1") the trustee of the Asset A1 Superannuation Fund ("The Superannuation Fund"). The Superannuation Fund was established to provide superannuation benefits primarily superannuation guarantee contributions as required under the Superannuation Guarantee Act ("SGA") to staff and employees of the Asset Group.
- 1.3 In the period June 1996 to July 1999 Cummins used the title "Fund Administrator" and had primary responsibility for the administration of the Super Fund.
- 1.4 In about December 1998 Cummins and Tillet decided to wind down the Superannuation Fund and to roll over superannuation contributions to individual

ASGARD Employee Superannuation accounts ("ASGARD"). Tillet resigned as a director of Asset A1 in February 1999.

- 1.5 On 2 July 1999 the Australian Prudential Regulation Authority ("APRA") removed Asset A1 as trustee of the Superannuation Fund and appointed Sims Lockwood Insolvency Pty Limited ("Sims ") as acting trustee of the Superannuation Fund.
- 1.6 ASIC has conducted an investigation into the involvement of Cummins and Tillet in the management of the Asset Group.
- 1.7 As a result of the investigation ASIC has concerns that:
 - (a) For the financial years 1996/97, 1997/98 and 1998/99 Cummins and Tillet failed to ensure that companies in the Asset Group paid to its employees their lawful superannuation entitlements. The deficiency in superannuation contributions for the years 1996 to 1999 was \$1,336,038.72.
 - (b) In the years 1996 to 1999 Asset A1 did not prepare any accounts for the Superannuation Fund or maintain financial records which recorded the assets of the Superannuation Fund or transactions on behalf of the Superannuation Fund. Individual Account Statements were only provided to a small number of members who requested rollover of their superannuation entitlements.
 - (c) In the period from 1997 to 1999 Cummins authorised payments exceeding \$762,000 from the bank account of ATP towards the redevelopment of two Bellevue Hill residential development properties owned by companies controlled by Cummins and Tillet. According to Cummins and Tillet, these payments represented an investment by the Super Fund in the two properties. The interest of the Super Fund in these two properties was not documented.
- 1.8 Arising from the ASIC investigation, Cummins and Tillet have made net payments totalling \$1,815,573 to Sims and to ASGARD. This represents full payment for the superannuation deficiency for 1996/99 together with the superannuation entitlements due for 1999/2000.
- 1.9 Pursuant to the provisions of the Law, ASIC may, inter alia, seek injunctive and other relief against Tillet including an order prohibiting Tillet from managing a corporation, in respect of the conduct referred to in paragraph 1.7.
- 1.10 While the Asset Group and the directors do not agree with all aspects of ASIC's concerns as set out above, they each acknowledge ASIC has concerns and have agreed to put in place a number of measures (including the specific requirements set out below) for the purposes of ensuring ongoing compliance with the Law, the Corporations Regulations, and the Superannuation Industry (Supervision) Act.

- 1.11 ASIC has agreed to accept the commitments in this Enforceable Undertaking as an alternative to the exercise of the power referred to in paragraph 1.9. In accepting this undertaking ASIC has had regard to:
- (a) Cummins relinquishing all roles within the Asset Group; and
 - (b) the payments made by Cummins and Tillet referred to in paragraph 1.8 above.

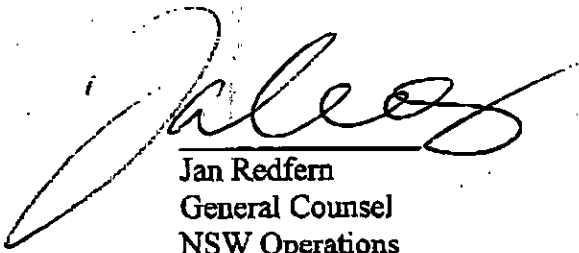
2. UNDERTAKINGS

Pursuant to section 93AA of the ASIC Act, the Asset Group undertakes that from the date on which this Enforceable Undertaking is accepted:

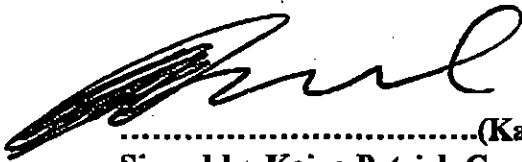
- 2.1 Mark Cummins will not be appointed a director or be permitted to take part in the management of any corporation (as defined in s.91A (2) of the Law) in the Asset Group
- 2.2 For the financial years 2000/2001 and 2001/2002 the Asset Group will:
- (a) in respect of permanent staff pay to ASGARD (or such other complying superannuation fund notified to ASIC) the superannuation contributions due under the SGA in arrears on a monthly basis; and
 - (b) in respect of temporary staff pay to ASGARD (or such other complying superannuation fund notified to ASIC) the superannuation contributions in arrears on a six monthly basis.
- 2.3 The Asset Group will, within 30 days from the date of the acceptance of this undertaking, engage an independent external consultant ("the consultant") (whose appointment and terms of reference is to be approved by ASIC) to review, assess, make recommendations and report in writing as at 31 December 2000, 31 July and 31 December 2001) ("the reportable dates") to the Asset Group and ASIC in relation to the matters (a) to (e) below:
- (a) the implementation and operation of a system to adequately record the superannuation guarantee contribution liability of each of the companies and the individual superannuation entitlements ;
 - (b) the implementation and operation of a procedure for the collection and remittance of superannuation contributions to the trustee;
 - (c) whether all employees and employers are members of the complying superannuation fund;
 - (d) whether or not each of the companies in the Asset Group is complying with its obligations under the superannuation legislation; and

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





Jan Redfern
General Counsel
NSW Operations

This *20th* day of *December* November 2000.



.....(Kaius Patrick Cummins)
Signed by Kaius Patrick Cummins personally and as a Director for and on behalf
of Goldstern Pty Ltd

in the presence of:

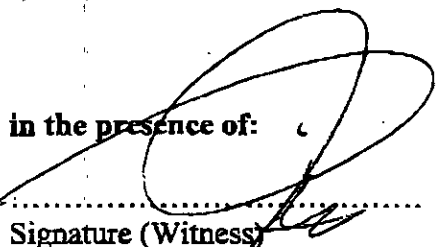

.....
Signature (Witness)

PHIL THOMPSON
Name (printed)

12 CRANE AVE DOBROYD POINT.
Address



.....(Ritva Kaarina Tillet)
Signed by Ritva Kaarina Tillet as a Director for and on behalf of Kenran Pty Ltd

in the presence of:



.....
Signature (Witness)

PATRICIA TILLET
Name (printed)

83 TUCKS RD MANRIDGE
Address
3928 VIC

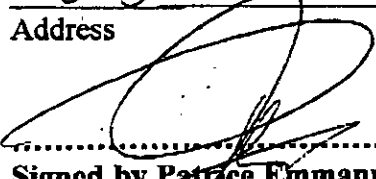

.....(Ritva Kaarina Tillet)
Signed by Ritva Kaarina Tillet personally and as a Director for and on behalf of
Asset Temporary Personnel Pty Ltd

in the presence of:

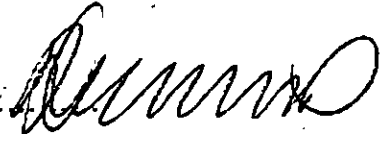
.....
Signature(Witness) 

PATRICK TILLET
Name (printed)

83 WICKS RD MAIN RIDGE
Address 3928 VIC

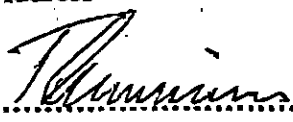

.....(Patrice Emmanuel Tillet)
Signed by Patrice Emmanuel Tillet personally and as a Director for and on behalf
of Asset Personnel (Victoria) Pty Ltd

in the presence of:

.....
Signature(Witness) 

RITVA TILLET
Name (printed)

83 WICKS RD MAIN RIDGE
Address 3928 VIC


.....(Tristan Mark Cummins)
Signed by Tristan Mark Cummins personally and as a Director for and on behalf
of Busina Pty Ltd

in the presence of:

.....
Signature(Witness) P.J. Thompson

PHIL THOMPSON
Name (Printed)

12 CRANE AVE DOBROUD POINT,
Address

- (e) the ability of each of the companies to meet their respective superannuation liability as and when they fall due.
- 2.4 The reports by the independent external consultant will be provided to the Director of Enforcement of the New South Wales Regional Office of ASIC within 7 days of the respective reporting dates.
- 2.5 The Asset Group will address any compliance issues identified by the consultant and implement, either as soon as practicable or pursuant to a timetable agreed with ASIC, recommendations made by the consultant.
- 2.6 Each of the Directors will use their best endeavours to address any compliance issues identified by the independent external consultant and implement any recommendations made by the independent external consultant.
- 2.7 Each of the Directors will use their best endeavours to ensure compliance by the Asset Group with the terms of this undertaking.
- 2.8 The Directors will notify ASIC's NSW Director of Enforcement of any failure to comply with this undertaking within 2 business days of becoming aware of any such failure.

3. ACKNOWLEDGMENTS

- 3.1 The Asset Group and the Directors acknowledge that ASIC:-
- (a) may issue a media release on execution of this Enforceable 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 Enforceable Undertaking; and
 - (c) will make this Enforceable Undertaking available for public inspection.
- 3.2 The Asset Group and the Directors acknowledge that this Enforceable 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 Enforceable Undertaking except as stated in paragraph 1.11.
- 3.3 The Asset Group and the Directors acknowledge 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 in respect thereof.
- 3.4 The Asset Group and the Directors acknowledge that this Enforceable Undertaking has no operative force until accepted by ASIC.