

**Enforceable Undertaking****Section 93AA****Australian Securities & Investments Commission Act**

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

Dymatech Pty Ltd ("the Company")
ACN 089 413 552
Level 5
16 Queensland Avenue
Broadbeach QLD 4218

AND

Geoffrey Newton Day ("Day")
Unit 11, 78 Stanhill Drive
Chevron Island QLD 4217

1. Background

1.1 ASIC has investigated whether or not the Company or Day may have contravened Part 2 Division 2 of the ASIC Act, or Parts 7.3, 7.11, 8.3 or 8.7 of the Corporations Law ("the Law"), in or in connection with the making available of information, through use of an Internet website, concerning securities and futures contracts.

1.2 As a result of these investigations ASIC has reason to believe that: -

1.2.1 From about January 2000 to January 2001 ("the Relevant period"), the Company and Day have been conducting a business of making available information concerning securities and futures commodities. ("the Information")

1.2.2 For the period January 2000 to September 2000 the Company and Day acted in association with a securities and futures licensee

1.2.3 The Information has been made available by posting it to a website of Internet domain name www.dymatech.com. ("the Website")

1.2.4 The Information has included the following -

Reports styled as "Stock Forecasts", which include express recommendations to deal or refrain from dealing in securities or futures contracts; and,

Reports styled as "Bulletin Updates", which contained factual information, as well as charts and opinions in respect of likely price movements in securities or futures contracts.

- 1.2.5 Around 23 persons have subscribed to the Company for the supply of the Information. ('the Clients')
- 1.2.6 The Company and Day have represented that the recommendations and opinions are derived from a form of technical analysis that they describe as elliptical cycle analysis. ('the Dymatech system')
- 1.2.7 The Company and Day have caused or authorised advertisements to be placed in the media, or caused promotional material to be published on the Website, which make representations concerning the accuracy or profitability of the recommendations or opinions expressed by the Company, or of the Dymatech system. ('the Promotional material')
- 1.2.8 The Promotional material has not accurately represented the accuracy or profitability of the recommendations or opinions expressed by the Company, or of the Dymatech system or its suitability for use by persons, in that the material was based upon sole successful trades, rather than upon a sample of trades, and the promotional material has not contained appropriate disclaimers.
- 1.2.9 The Clients have generally paid an initial subscription fee of up to \$5,500, and ongoing fees of between \$55 to \$110 per month (depending on subscription level) payable after the expiry of three calendar months from the initial subscription.
- 1.2.10 The sole director of the Company since 1 March 2000 is Day, and the only other person to have been a director of the Company was Rodney John Day ("Day's son"), who acted from 6 September 1999 to 1 March 2000.
- 1.2.11 The Company, Day or Day's son have not held a securities license or a futures license.
- 1.2.12 The Company, Day or Day's son have not, within the relevant period, been authorised by a futures licensee to act on its behalf.
- 1.2.13 The Company, Day or Day's son have not, within the relevant period, been authorised by a securities licensee to act on its behalf, with the exception that Day and Day's son were authorised for the period from 6/3/00 to 4/9/00.
- 1.3 As a result of its investigations, ASIC has reason to suspect that the Company and Day have contravened section 781 and section 1143 of the Law through the making available of the Information on a subscription basis, and sections 12DA and 12DB of the ASIC Act, through the publishing of the Promotional material.
- 1.4 ASIC may seek orders pursuant to section 1324, section 804 and section 1170 of the Law restraining the company and Day from contravening the Law, and requiring the Company to

repay to clients any fees it has received when it was required to be licensed but was not licensed.

- 1.5 ASIC may seek orders pursuant to section 12GD of the ASIC Act restraining the company and Day from contravening Part 2 Division 2 of the ASIC Act, and, where persons give ASIC their consent, may seek further orders pursuant to 12GM of the ASIC Act compensating persons for any losses they may suffer due to any contravention of Part 2 Division 2 of the ASIC Act.
- 1.6 The Company and Day acknowledge ASIC's concerns set out in this undertaking and acknowledge that they have now ceased making available the Information or publishing the Promotional material.
- 1.7 ASIC has agreed to accept the commitments in this enforceable undertaking as an alternative to the exercise of the powers referred to in paragraphs 1.4 and 1.5 above.

2. Undertakings

The Company and Day, jointly and severally, give the following enforceable undertakings to ASIC pursuant to section 93AA of the Australian Securities and Investments Commission Act:-

- 2.1 The Company and Day remove from the Website, within one business day of the acceptance of this enforceable undertaking, the Information and the Promotional material.
- 2.2 The Company and Day desist, until such time as they acquire an appropriate licence in accordance with the provisions of the Law, or until such time as Day shall hold an appropriate proper authority from a licensee, from doing any of the following: -
 - 2.2.1 Publishing on the internet or elsewhere, securities reports and recommendations and futures reports and recommendations, including those derived from using the Dymatech system;
 - 2.2.2 Publishing on the internet or elsewhere, promotional material concerning the Dymatech system; and,
 - 2.2.3 Accepting subscriptions for the provision of the Information or use of the Dymatech system.
- 2.3 The Company and Day not be associated with the publishing of any promotional material concerning the Dymatech system, unless any representations concerning the accuracy or profitability of the Dymatech system are based upon a fair sample of trades undertaken by use of the system and contain disclaimers to the effect that -
 - 2.3.1 Trading in securities and futures using the Dymatech system may not be appropriate for all persons;
 - 2.3.2 There is potential for loss of funds from trading securities and futures; and,

2.3.3 Past results are not a guarantee to future performance.

- 2.4 The Company and Day give to the clients, within 14 days of the date of acceptance of this enforceable undertaking, a written advice that they may rescind the subscription agreements by giving notice to the Company within four weeks of the date of the written advice, such advice to be reviewed and approved by ASIC prior to despatch to clients.
- 2.5 The Company and Day give, to each client from whom they receive a rescission notice within four weeks of their receipt of the written advice, a written acknowledgement of the Company's indebtedness to the client, such acknowledgement to be given within 14 days of the receipt of the rescission notice.
- 2.6 The Company and Day provide to ASIC a copy of all correspondence they send or receive pursuant to paragraphs 2.4 and 2.5 of this enforceable undertaking.
- 2.7 The Company and Day permit ASIC continuing access to information it may reasonably require, including continuing access to any website they may maintain, for the purposes of monitoring compliance with this enforceable undertaking.

3. Acknowledgments

- 3.1 The Company and Day acknowledge that they have had the opportunity to obtain legal advice in relation to the content and effect of this enforceable undertaking.
- 3.2 The Company and Day acknowledge that ASIC:-
- 3.2.1 Will 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;
 - 3.2.2 Will make this enforceable undertaking available for public inspection; and,
 - 3.2.3 May from time to time publicly refer to this enforceable undertaking.
- 3.3 The Company and Day acknowledge 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.
- 3.4 Subject to paragraphs 1.4 and 1.5 of this enforceable undertaking, the Company and Day further acknowledge that entering into this enforceable undertaking in no way derogates from the rights and remedies available to ASIC or any other person or entity relating to or arising from any conduct described in this enforceable undertaking.
- 3.5 The Company and Day acknowledge that this enforceable undertaking has no operative force until accepted by ASIC.

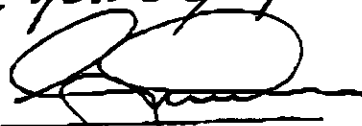
THE COMMON SEAL OF)
DYMATECH PTY LTD)
ACN 089 413 552)
THE FIXING OF WHICH)
WAS WITNESSED BY:)



Signature of Director

*Pursuant to the company's constitution its
does not require the fixing of a seal*

SIGNED BY GEOFFREY NEWTON DAY)
IN THE PRESENCE OF)



Geoffrey Newton Day

Signed:



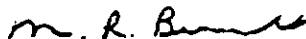
Name In Print

SEAN RIORDAN

Address

LVL 22, 240 QUEEN ST
BRISBANE

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



Michael Burnett
Director of Enforcement
Queensland Regional Office

This 7 day of February 2001.