

**ENFORCEABLE UNDERTAKING****AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION ACT****SECTION 93AA**

The commitments in this Undertaking are offered to the Australian Securities & Investment Commission ("ASIC") by:

**Anthony Casey Wilson**  
C/-Watson Mangioni  
Level 10, 15 Castlereagh Street  
Sydney NSW 2000

**1. BACKGROUND**

- 1.1 In May 1999, ASIC commenced an investigation (the "Investigation") in relation to suspected contraventions of Section 998 of the Corporations Law in respect of trading in the securities of Britannia Gold NL ("BNA") and Charter Pacific Corporation Limited ("CHP") in the period from 1 December 1998 to 27 April 1999 (the "Relevant Period").
- 1.2 During the Relevant Period, Anthony Casey Wilson ("Wilson") held a proper authority from Credit Suisse First Boston Australia Equities Private Limited (and its predecessor) ("CSFB").
- 1.3 During the Relevant Period, it appears to ASIC that Wilson effected sales and purchases of securities in two ways:
- (a) sales and purchases of securities between client accounts all of which are CSFB client accounts; and
  - (b) a single pre-arranged sale between a client's account at CSFB and another broker and a subsequent re-purchase of the same securities by CSFB on behalf of a client of CSFB.
- 1.4 In respect of the first type of transaction, during the Relevant Period, it appears to ASIC that:
- (a) Wilson effected on a discretionary basis sales and purchases on Australian Stock Exchange Limited ("ASX") on behalf of client accounts with CSFB in the securities of BNA and CHP;
  - (b) certain of the transactions referred to in Paragraph 1.4(a) were effected by way of 'crossings' in compliance with ASX Business Rule 2.7;

- (c) certain of the purchases referred to in Paragraph 1.4(a) were not paid for by the clients in respect of whose accounts they were purchased; and
  - (d) the transactions referred to in Paragraphs 1.4(a), 1.4(b) and 1.4(c) created a false and misleading appearance of active trading in the securities of BNA and CHP, as a result of there being no change in the beneficial ownership of the securities pursuant to those transactions.
- 1.5 In respect of the second type of transaction, during the Relevant Period, it appears to ASIC that:
- (a) Wilson caused a parcel of 1,670,500 BNA securities to be sold from a client account at CSFB in a discretionary fashion to an account at another broking firm;
  - (b) on the day immediately after the sale of 1,670,500 BNA securities, the securities were re-purchased by CSFB on behalf of a client; and
  - (c) the transactions referred to in Paragraphs 1.5(a) and 1.5(b) are false and misleading, in that they were designed to enable Wilson to effectively retain control of the line of BNA securities and delay payment for the securities.
- 1.6 ASIC was concerned that the trading in the securities of BNA and CHP was conducted by Wilson on client accounts at CSFB in circumstances where:
- (a) Wilson had not received orders from clients to purchase or sell the relevant securities. Instead, that trading was performed on a discretionary basis;
  - (b) on a certain number of the CSFB accounts on which Wilson conducted trading on a discretionary basis, Wilson did not have written or oral authority to purchase or sell securities on a discretionary basis;
  - (c) on the other CSFB client accounts on which Wilson conducted trading on a discretionary basis, Wilson had only oral authority to purchase or sell securities on a discretionary basis;
  - (d) in respect of all of the accounts referred to in Paragraphs 1.6(b) and 1.6(c), in the absence of the required written authority from the relevant clients to conduct the subject trading on a discretionary basis, Wilson caused CSFB to contravene ASX Business Rule 3.4.1, which provides that a Trading Participant may only manage discretionary accounts if they have written authorisation from the clients setting out the terms and conditions under which the accounts are to be operated;

- (e) because Wilson failed to inform CSFB that he was operating discretionary accounts, and accordingly CSFB did not maintain a register of client accounts that Wilson operated in a discretionary manner, Wilson caused CSFB to breach ASX Business Rule 3.4.4, which provides that a Trading Participant must maintain a register of discretionary accounts which contains the name of the client, the account number, the account opening information and the written authorisation of the client including limitations on the manner in which the account can be operated;
  - (f) because Wilson withheld contract notes from clients, which concealed from them the trading referred to in Paragraphs 1.6(a), 1.6(b) and 1.6(c), Wilson caused CSFB to contravene Section 842 of the Corporations Law, and ASX Business Rule 3.8, which provide that a Trading Participant must immediately dispatch to each client a contract note in respect of the purchase or sale of securities executed for and on the account of the client; and
  - (g) Wilson caused the transactions to take place to satisfy requests from CSFB for payments on the overdue client accounts. These transactions were not authorised by the respective clients.
- 1.7 CSFB paid for the purchases of securities on behalf of Wilson's clients.
- 1.8 As a result of the Investigation, ASIC had concerns that:
- (a) Wilson may have contravened Section 995 of the Corporations Law by reason of the matters set out in Paragraphs 1.3 to 1.6;
  - (b) Wilson may have caused CSFB to contravene ASX Business Rules 3.4.1, 3.4.4 and 3.8, and Section 842 of the Corporations Law, by reason of the matters set out in Paragraphs 1.3 to 1.6;
  - (c) Wilson did not perform the duties of a securities representative efficiently, honestly and fairly by reason of the matters set out in Paragraphs 1.3 to 1.6; and
  - (d) Wilson may not perform the duties of a securities representative efficiently, honestly and fairly by reason of the matters set out in Paragraphs 1.3 to 1.6.
- 1.9 ASIC has the power pursuant to Section 829 of the Corporations Law to make a banning order against a natural person if relevantly:
- (a) he contravenes a securities law;
  - (b) ASIC has reason to believe that he has not performed the duties of a representative of a dealer efficiently, honestly and fairly; or

- (c) ASIC has reason to believe that he will not perform the duties of a securities representative efficiently, honestly and fairly.
- 1.10 Section 830 of the Corporations Law provides that ASIC, after complying with Section 837(2), may make a banning order to prohibit a person permanently, or for a specified period, from doing an act as:
- (a) a representative of a dealer, and/or
  - (b) a representative of an investment adviser.
- 1.11 ASIC has agreed to accept the commitments in this Undertaking as an alternative to the exercise of the powers referred to in Paragraphs 1.9 and 1.10 and in accepting this Undertaking has had regard to:
- (a) the fact that Wilson has not practised or worked as a holder of a proper authority in Australia since August 2000; and
  - (b) the fact that Wilson is currently overseas, and presently intends to work overseas for a number of years, but nevertheless has agreed to give the undertakings set out in Paragraphs 2.1 to 2.4, which make provision for the notification of the terms of this Undertaking to his employer and each relevant regulatory authority.
- 1.12 Wilson acknowledges ASIC's concerns set out in this Undertaking, but does not concede the contraventions of the Corporations Law, or the ASX Business Rules, set out in Paragraphs 1.3 to 1.8. Wilson also does not concede that, in the circumstances, ASIC would be entitled to exercise the powers referred to in Paragraphs 1.9 and 1.10.

## 2. UNDERTAKINGS

Wilson gives the following undertakings pursuant to Section 93AA of the Australian Securities & Investments Commission Act (the "ASIC Act").

- 2.1 Wilson undertakes that, he will, until 30 September 2002 (the "Restricted Period"):
- (a) not engage in any discretionary trading on behalf of clients;
  - (b) where operating as a retail trader, report all outstanding settlements and/or debts to the compliance area of his employer;
  - (c) ensure that all personal and related trades (ie. trades conducted by Wilson on behalf of his immediate family, partner, friends, family companies and companies of which he is a director) will be approved by the head of legal compliance or a director of his employer, prior to their execution;

- (d) ensure that he has sufficient funds in order to settle all personal and/or related trades, prior to their execution;
- (e) engage in regular staff training which is overseen by, and recorded by, a supervisor at his place of employment; and
- (f) arrange for an independent consultant, approved by ASIC, to be retained (at his cost) to appraise his compliance with the requirements set out in this Paragraph 2.1 every quarter and to report directly to ASIC in relation thereto.

2.2 If Wilson breaches the undertakings set out in Paragraph 2.1, Wilson undertakes that he will not, for the balance of the Restricted Period, in Australia:

- (a) do any act or engage in any conduct as a representative of a dealer (as defined by the Corporations Law from time to time);
- (b) hold out that he is a representative of a dealer;
- (c) hold a proper authority from a dealer;
- (d) hold out that he holds a proper authority from a dealer;
- (e) do any act or engage in any conduct as a representative of an investment adviser (as defined by the Corporations Law from time to time);
- (f) hold out that he is a representative of an investment adviser;
- (g) hold a proper authority from an investment adviser;
- (h) hold out that he holds a proper authority from an investment adviser;
- (i) carry on the business of a securities dealer either directly or indirectly as a director, partner, manager, servant or agent;
- (j) carry on the business of an investment adviser either directly or indirectly as a director, partner, manager, servant or agent;
- (k) apply to ASIC for a dealers licence; or
- (l) apply to ASIC for an investment advisers licence.

2.3 Wilson undertakes to notify his present employer and any subsequent employer during the Restricted Period and each relevant regulator of the terms of this Undertaking.

2.4 Wilson authorises ASIC to notify his employer from time to time and each relevant regulator of any breaches of the undertakings set out in Paragraphs 2.1 and/or 2.2 and to provide to such employer and/or regulator a copy of any report given to ASIC as envisaged in Paragraph 2.1(f).

3. ACKNOWLEDGEMENTS

3.1 Wilson acknowledges that:

- (a) ASIC may issue a media release referring to the terms of this Undertaking and to the concerns of ASIC as expressed in this Undertaking which led to its execution;
- (b) ASIC may from time to time refer to this Undertaking; and
- (c) ASIC will make this Undertaking available for public inspection.

3.2 Wilson acknowledges that this Undertaking in no way derogates from the rights and remedies available to ASIC (subject to Paragraph 1.11) or to any other person or entity arising from any conduct described in this Undertaking.

3.3 Wilson acknowledges that ASIC's acceptance of this Undertaking does not affect ASIC's power to investigate a contravention arising from future conduct, or to pursue a criminal prosecution, or its power to lay charges, or to seek a civil pecuniary order, against Wilson.

3.4 Wilson and ASIC agree that this Undertaking is governed by the laws of New South Wales and, in particular, the ASIC Act. Wilson submits to the jurisdiction of the courts of New South Wales in relation to this Undertaking.

3.5 Wilson appoints his lawyers, Watson Mangioni, as his agent for service of notices and any legal process arising out of or in connection with this Undertaking. The current address of Watson Mangioni is Level 10, 15 Castlereagh Street, Sydney, NSW 2000.

3.6 Wilson acknowledges that this Undertaking applies, in accordance with its terms, notwithstanding that Wilson is not resident, or present, in Australia.

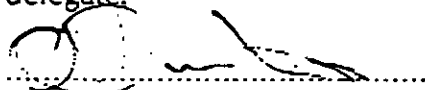
SIGNED by ANTHONY CASEY WILSON )  
in the presence of: )

.....  
Witness

.....  
A C Wilson

.....  
Name

ACCEPTED by the AUSTRALIAN )  
SECURITIES & INVESTMENTS )  
COMMISSION pursuant to Section 93AA )  
of the ASIC Act by its duly authorised )  
delegate: )



Allen Turton  
NSW Director of Enforcement



Dated: 21 March 2001