



ENFORCEABLE UNDERTAKING

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

SECTION 93AA ASIC ACT

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

Mr Kimberley John Clifton
9 Riley Road
CLAREMONT WA 6010 ("Mr Clifton")

1. BACKGROUND

- 1.1 Knightsbridge Finance Pty Ltd (ACN 008 716 872) (formerly Clifton Partners Finance Pty Ltd) ("Knightsbridge Finance") as trustee for the Clifton Partners Unit Trust owns the business, Clifton Partners Finance. The nature of the business operated by Clifton Partners Finance was finance broking and arranging mortgage investments for investors.
- 1.2 From 22 October 1979 until about the end of January 2001, Mr Clifton was a Director of Knightsbridge Finance.
- 1.3 At all relevant times, Mr Clifton was the licence holder and person in bona fide control of Clifton Partners Finance.
- 1.4 ASIC has formed a view that the mortgage investments arranged by Clifton Partners Finance, were regulated as securities under the Corporations Law ("CL"), as they were:
 - (a) prescribed interest as defined under s.9 CL prior to 1 July 1998;
 - (b) interests in a managed investment scheme or schemes as defined under s.9 CL; or
 - (c) debentures as defined under s.9 CL.
- 1.5 Accordingly, prior to 22 December 1999 Clifton Partners Finance and therefore Clifton operated a business of dealing in securities within the meaning under s.93 CL.
- 1.6 As a result of the enactment of the Managed Investment Act 1998 the business operated by Clifton Partners Finance constituted a "managed investment scheme" as defined under s.9 of the CL. The business therefore had to be regulated pursuant to the requirements of the CL.

- 1.7 In relation to mortgage investments arranged prior to 17 December 1999, a change in ASIC policy meant that such investments had to be "run-out" by 1 November 2001.
- 1.8 Subsequently from 22 December 1999, Australian Managed Fund Limited (ACN 089 532 169) ("AMF") took over the business operated by Clifton Partners Finance and became the responsible entity for the managed investment scheme. [Subsequently, from effect on 30 May 2000 there was a change in the ownership of AMF and AMF also changed its name to Knightsbridge Managed Funds Ltd ("KMFL").]
- 1.9 KMFL also registered the Knightsbridge Finance Mortgage Scheme (ARSN 091 023 979) ("Scheme") and appointed Knightsbridge Finance as its agent and custodian to manage the Scheme and hold all the scheme property. KMFL also delegated all the day to day operations of the Scheme to Knightsbridge Finance.
- 1.10 Between 23 December 1999 and 6 December 2000, Mr Clifton was an authorised representative of KMFL as he was given a proper authority, as defined under s.88 CL.
- 1.11 As a result of its enquiries, ASIC has formed the view from about 1997 Mr Clifton in a number of instances:
- (a) engaged in conduct which was liable to mislead and deceive investors;
 - (b) paid out investor's monies to persons or for purposes contrary to the investor's authorisation;
 - (c) engaged in generally improper practices and conduct; and
 - (d) failed to do proper due-diligence before allowing investors' monies to be advanced to borrowers.
- 1.12 As result of its enquires, ASIC has also formed a view that from about 23 December 1999, Mr Clifton in a number of instances failed to perform efficient, honest and fairly his duties as a representative of a dealer in that a number of instances he:
- (a) engaged in conduct which was liable to mislead and deceive investors;
 - (b) paid out investor's monies to persons for purposes contrary to the investor's authorisation;
 - (c) engaged in generally improper conduct and practices; and
 - (d) did not exercise reasonable skill, care and diligence before advancing monies to borrowers.
- 1.13 Mr Clifton disputes ASIC's views set out in paragraphs 1.11 and 1.12 above.

- 1.14 By Notice of Hearing dated 17 May 2001, ASIC's delegate gave notice to Mr Clifton of the commencement of banning proceedings pursuant to s829 CL.
- 1.15 ASIC has accepted the undertakings outlined herein in lieu of holding a banning hearing in respect of Mr Clifton.

2. DEFINITIONS

In this undertaking the following terms have the following meanings unless the context otherwise requires:

"Loan Investment" means:

- (a) a loan investment that is a "managed investment scheme" as that term is defined in the Corporations Act from time to time; or
- (b) a loan investment that is a "debenture of a body" as that term is defined in the Corporations Act from time to time.

"person" includes a body corporate as well as a natural person.

The term **"financial services business"** has the same meaning as defined under the Financial Services Reform Act 2001, as enacted and amended from time to time.

The terms **"securities business"**, **"investment advice business"**, **"representative"**, **"deal"**, **"dealer"** and **"investment adviser"** have the same meanings as in the Corporations Act.

3. UNDERTAKINGS

3.1 Subject to Clause 4.5, Mr Clifton undertakes to refrain from:

- (a) carrying on a securities business, or being in any way (whether directly or indirectly) concerned in the management of such a business;
- (b) acting as a representative of a dealer;
- (c) carrying on an investment advice business, or being in any way (whether directly or indirectly) concerned in the management of such a business;
- (d) acting as a representative of an investment adviser;
- (e) carrying on a financial services business, or being in any way (whether directly or indirectly) concerned in the management of such a business;

- (f) acting as an authorised representative of a financial services licensee;
- (g) being an employee of a persons/entity holding a financial services licence; or
- (h) making application to a dealer, investment adviser or financial services licensee to become a representative of that dealer, investment adviser or financial services licensee.

3.2 Without limited the generality of paragraph 3.1 Mr Clifton undertakes to refrain from:

- (a) carrying on a business that deals in or advises on Loan Investments, or being in any way (whether directly or indirectly) concerned in the management of such a business; or
- (b) acting as a representative or employee of a business that deals in or advises on Loan Investments.

4. ACKNOWLEDGMENTS

4.1 Mr Clifton acknowledges that ASIC:

- (a) may issue a media release upon execution of this 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 undertaking; and
- (c) will make this undertaking available for public inspection.

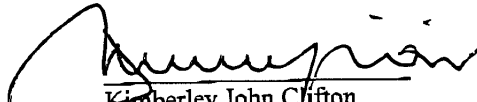
4.2 Mr Clifton acknowledges that this undertaking in no way derogates from the rights and remedies available to any other person arising from any conduct described in the undertaking.

4.3 Mr Clifton acknowledges that this undertaking has no operative force until accepted by ASIC.

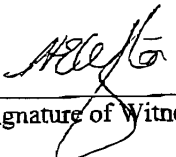
4.4 Mr Clifton acknowledges that ASIC's acceptance of this undertaking does not affect ASIC's power to investigate a contravention arising from past or future conduct, or pursue a criminal prosecution, or its power to lay charges or seek a pecuniary civil order, or commence civil proceedings against Clifton Partners Finance/Knightsbridge Finance or any other person.

4.5 The entering into this undertaking is without prejudice to Mr Clifton's rights to make an application pursuant to ASIC Act s93AA to vary the terms hereof in the event that he wishes to do or carry on any of the matters referred to in paragraphs 3.1 or 3.2 hereof, or to defend any action taken by ASIC or investors or any other party howsoever arising in respect of any of the matters referred to herein.

SIGNED by the said)
KIMBERLEY JOHN CLIFTON)
in the presence of:)



Kimberley John Clifton



Signature of Witness

HELEN E CLIFTON

Name of Witness (please print)

~~JONES RD WESTDALE~~


Address

FARMER

Occupation

This 11th day of Dec 2001.

ACCEPTED BY THE AUSTRALIAN SECURITIES AND INVESTMENTS
COMMISSION PURSUANT TO ASIC ACT s93AA BY ITS DULY AUTHORISED
DELEGATE:



Michael Gething
A delegate of Australian Securities and Investments Commission

This 17 day of December 2001.