



ASIC

Australian Securities & Investments Commission
ENFORCEABLE UNDERTAKING

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Section 93AA Australian Securities & Investments Commission Act 2001

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

Daryl John McGuire
2 Hayes Street,
THORNLANDS QLD 4164.

1. Background

- 1.1 ASIC has conducted an investigation into suspected contraventions of the Corporations Act 2001 ("Corporations Act") by Daryl John McGuire ("Mr McGuire") in relation to his conduct concerning the redemption of certain securities.
- 1.2 Mr McGuire held a proper authority from a licensed securities dealer as follows:
- (a) AMP Financial Planning Pty Limited, from 1 August 1996 to 2 December 1997;
 - (b) Moneytrends Pty Ltd, from 23 June 1999 to 31 October 2000;
 - (c) Lynx Financial Services Pty Ltd, from 2 January 2001 to 21 May 2001; and
 - (d) Altus Financial Services Ltd, from 19 September 2001 to 30 January 2002.
- 1.3 In August 1999 Mr McGuire advised a client to invest \$205,114.95 in a Bankers Trust managed fund.
- 1.4 Between August 1999 and May 2001 Mr McGuire caused approximately \$185,000 to be redeemed from the Bankers Trust managed fund and ultimately paid into bank accounts he controlled or with which he was associated without the knowledge or consent of the client.

2. Concerns of ASIC

2.1 As a result of its investigations, ASIC is concerned that Mr McGuire has:

- (a) during the period between 24 August 1999 and 1 May 2001, redeemed money from a managed fund in the name of a client by lodging false redemption documents;
- (b) during the period between 24 August 1999 and 1 May 2001, applied money belonging to a client to his own use or benefit;
- (c) during the period between June and August 1999, contrary to section 851 of the Law, made securities recommendations to a client when he did not have a reasonable basis for the recommendation; and
- (d) placed himself in a position of conflict of interest in respect of his clients and the investment arrangements he proposed for them.

3. Acknowledgement of ASIC's Concerns

3.1 ASIC has the power pursuant to sections 829 and 830 of the Corporations Act to make an order in certain circumstances banning a natural person from doing an act as a representative of a dealer or of an investment adviser either permanently or for a specified period.

3.2 In agreeing to offer the commitments in this undertaking as an alternative to ASIC exercising its powers, Mr McGuire acknowledges ASIC's concerns set out above.

4. Undertakings

4.1 Pursuant to Section 93AA of the Australian Securities and Investments Commission Act 2001, Daryl John McGuire hereby **undertakes that** he will not, from the date of this enforceable undertaking, at any time in the future:

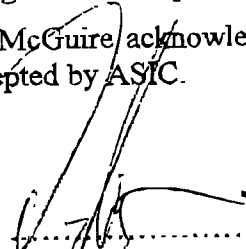
- (a) carry on an investment advice business, or provide advice in relation to securities to any person;
- (b) do an act as a representative of a securities dealer or of an investment adviser;
- (c) apply to become a representative of such a licence holder;
- (d) apply to ASIC for an Australian Financial Services Licence ("AFSL");
- (e) apply to a holder of an AFSL to become a representative of such a licence holder;
- (f) do an act for which an AFSL or an authorisation from an AFSL holder is or would be required by law.

5. Acknowledgements


5.1 Mr McGuire acknowledges that:

- (a) ASIC may issue a media release on execution of this undertaking referring to its terms and the concerns of ASIC which lead to its execution;

- (b) ASIC may from time to time publicly refer to this undertaking; and
 - (c) ASIC will make this undertaking available for public inspection.
- 5.2 Mr McGuire acknowledges that ASIC's acceptance of this undertaking in no way derogates from the rights and remedies available to ASIC or any other person arising from any conduct described in this undertaking.
- 5.3 Mr McGuire acknowledges that ASIC's acceptance of an enforceable undertaking does not affect ASIC's power to investigate a contravention arising from future conduct, or to pursue criminal prosecution, or its power to lay charges or seek a pecuniary civil order.
- 5.4 Mr McGuire acknowledges that this undertaking has no operative force until accepted by ASIC.

SIGNED by: 
Daryl John McGuire

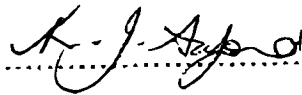
This 4th day of April, 2002
 In the presence of:

Witness: 
 Name: (print) M. RADULOVIC

Address: Level 20, 240 Queen St., BRISBANE, QLD 4000

This 4th day of April 2002

ACCEPTED BY the Australian)
 Securities & Investments)
 Commission pursuant to the)
 ASIC Act 2001 section 93AA by its)
 duly authorised delegate)


 Karen Axford
 Regional Commissioner South Australia
 Australian Securities & Investments Commission
 This 5th day of April 2002