



ASIC

Australian Securities & Investments Commission

Enforceable Undertaking

Section 93AA

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

Ashok Kumar Pal ("PAL")

1. Background

- 1.1 ASIC has conducted an investigation into suspected contraventions of the Corporations Act 2001 ("**Corporations Act**") in connection with an investment advisory business conducted by Macquarie Advisory Group Pty Ltd ("**MAG**") between 31 August 1994 and 24 September 1999 ("**the relevant period**").
- 1.2 Pal was a director of MAG during the relevant period.
- 1.3 Pal held proper authorities from the following securities licensees at the following times:
 - (a) AMP Financial Planning Pty Limited, a licensed securities dealer, from 1 August 1996 to 2 December 1997;
 - (b) Kamisha Corporation Limited, a licensed securities dealer, from 1 August 1996 until 12 November 1999; and
 - (c) Hillross Financial Services Limited from from 30 November 1997 until 27 May 1999.
- 1.4 During the relevant period, Pal made securities recommendations to clients of MAG to invest in securities including securities in Hibiscus Spas Pty Ltd, Macquarie Pooled Finance Pty Ltd, Tuska Resources NL, Blackhill Estate Pty Ltd and Macquarie Executive Benefits Pty Ltd.

2. Concerns of ASIC

- 2.1 As a result of ASIC's investigation, ASIC identified the concerns set out in paragraph 2.2 below which give rise to ASIC having reason to believe that Pal:
 - (a) has contravened a securities law;
 - (b) has not performed the duties of a securities representative efficiently, honestly and fairly; and

- (c) will not in the future perform the duties of a securities representative efficiently honestly and fairly.

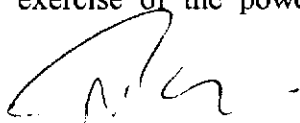
2.2 ASIC alleges that during the relevant period Pal:

- (a) Contrary to section 849(2) of the Act, made securities recommendations to clients without disclosing commissions, fees or any other benefits or advantages that he or MAG would receive in connection with the making of those recommendations.
- (b) Contrary to section 851 of the Act, made securities recommendations to clients when he did not have a reasonable basis for the recommendation.
- (c) Contrary to section 780 and/or 781 of the Act:
 - (i) Made recommendations to clients of MAG that they invest in securities knowing that MAG was not a securities licensee or an exempt dealer or exempt investment adviser.
 - (ii) Caused MAG to received fees or commissions from investments in securities.
- (d) Contrary to section 995 of the Act, engaged in conduct that was misleading or deceptive or likely to mislead or deceive by, in connection with making securities recommendations to clients by:
 - (i) Failing to disclose, or misrepresenting, the risks in investing in securities recommended.
 - (ii) Representing to clients that investments made by them were secured when he knew or ought to have known that the investments were unsecured.
- (e) Made securities recommendations to clients that they invest in securities that were not authorised by his principals.
- (f) Made investments in securities on behalf of clients that were not authorised by them.
- (g) Failed to ensure that clients were issued with documents evidencing their investments in securities.
- (h) Failed to ensure that documents securing clients' investments made were executed.

3. Acknowledgement of ASIC's Concerns

3.1 ASIC has the power to pursuant to sections 829 and 830 of the Corporations Act to make an order banning a natural person who fails to act efficiently honestly and fairly 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 accept the commitments in this undertaking as an alternative to the exercise of the powers referred to in paragraph 3.1, Pal acknowledges ASIC's




concerns that he has not adequately performed his duties in the securities industry as a representative of an investment adviser.

4. Undertaking

4.1 Pursuant to section 93AA of the Australian Securities and Investments Commission Act 2001 ("the ASIC Act"), Pal **undertakes** that he will not at any time in the future:

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

5. Acknowledgments

5.1 Pal acknowledges that he has obtained legal advice in relation to the content and effect of this undertaking.



5.2 Pal acknowledges and agrees that ASIC:

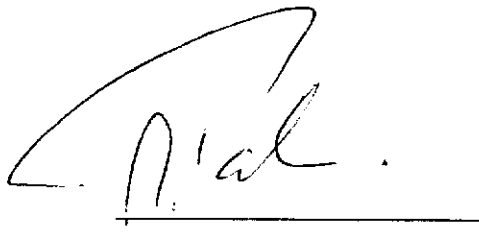
- (a) may issue a media release on execution of this undertaking referring to its terms and the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this undertaking; and
- (c) will make this undertaking available for public inspection.

5.3 Pal acknowledges that this undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this undertaking.

5.4 Pal acknowledges that ASIC's acceptance of this enforceable 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 pecuniary civil order.

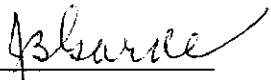
5.5 Pal acknowledges that this undertaking has no operative force until accepted by ASIC.



Signed by Ashok Kumar Pal)

In the presence of:



Signature


Name (printed)

JAMES BRUCE GARDE
67 Deakin Avenue, Mildura
Notary Public

Address

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

Dated this 22nd day of February 2002


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A J Orchard
Deputy Executive Director
Enforcement