



ENFORCEABLE UNDERTAKING

Section 93AA

Australian Securities and Investments Commission Act 2001

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

Justin Nicholas Cardillo ("Mr Cardillo")
40 Dryburgh Street
North Melbourne, Victoria 3058

1. Background

- 1.1 ASIC has issued a Notice of Hearing pursuant to section 837 of the old Corporations Act (as defined in section 1410 of the Corporations Act 2001) to Mr Cardillo in relation to concerns about Mr Cardillo's conduct as an authorised representative of Wilson HTM Limited ("Wilson's") a licensed dealer, in the period 29 March 2000 to 6 December 2000 ("the relevant period"). The Hearing was originally scheduled for 28 October 2002 but has been adjourned to 12 November 2002.
- 1.2 ASIC has also filed criminal charges in the Melbourne Magistrates Court against Mr Cardillo for contraventions of sub section 184(2) of the Corporations Act 2001. These charges are based on the same alleged activity that forms the basis of the concerns for which the hearing has been called pursuant to section 837 of the old Corporations Law. These charges have been adjourned to a committal mention hearing on 3 December 2002.
- 1.3 Mr Cardillo has requested an adjournment of the section 837 Hearing until the criminal charges have been heard and decided.

2. Concerns of ASIC

- 2.1 ASIC has the power, after offering a person a hearing pursuant to section 837, 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, pursuant to Sections 829 and 830 of the Old Corporations Act.
- 2.2 ASIC is concerned to ensure that Mr Cardillo does not provide advice in relation to financial products or act as a representative of a Securities dealer or Australian Financial Services licensee until the hearing pursuant to section 837 has been completed.

2.3 ASIC does not concede that it is obliged to adjourn the Hearing pursuant to section 837. However, on the basis of this undertaking, ASIC has agreed to do so in this instance.

3. Undertakings

3.1 Mr Cardillo gives the following enforceable undertaking to ASIC pursuant to section 93AA of the Australian Securities and Investment Commission Act 2001.

3.2 Mr Cardillo undertakes that from the time of signing this undertaking and until the completion of the adjourned Section 837 hearing he will not:

- (a) do any act or engage in any conduct as, or hold out that he is, a representative of a dealer or an investment adviser (as defined in the old Corporations Act);
- (b) hold, or hold out that he holds, a proper authority from a dealer or an investment adviser (as defined in the old Corporations Act);
- (c) carry on a securities business or hold out that he carries on such a business (as defined in the old Corporations Act);
- (d) carry on an investment advice business or hold out that he is an investment adviser (as defined in the old Corporations Act);
- (e) carry on a financial services business or hold out that he holds an Australian Financial Services Licence (as defined in the Corporations Act 2001);
- (f) apply to ASIC under section 911A of the Corporations Act 2001 for an Australian Financial Services License;
- (g) do any act as a authorised representative of an Australian Financial Services Licence holder.

4. Acknowledgement of ASIC's concerns

4.1 Mr Cardillo acknowledges ASIC's concerns set out in this undertaking.

4.2 Mr Cardillo acknowledges that he has had the opportunity to obtain legal advice in relation to the content of this enforceable undertaking.

4.3 Mr Cardillo acknowledges that ASIC:

- (a) will make this enforceable undertaking available for public inspection;
and

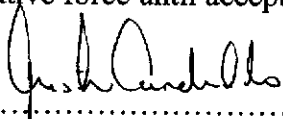
(b) may enter his name on the register kept pursuant to section 922A(c) of the Corporations Act 2001.

4.4 Mr Cardillo acknowledges that ASIC's acceptance of an enforceable undertaking does not affect ASIC's power to pursue a criminal prosecution, or lay charges, or seek a pecuniary civil order, or to investigate a contravention arising from future conduct.

4.5 Mr Cardillo acknowledges 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.

4.6 Mr Cardillo acknowledges that in the event that ASIC forms the opinion, on a reasonable basis, that he has breached the terms of this undertaking, ASIC may convene the adjourned section 837 hearing with not less than 7 days notice.

4.7 Mr Cardillo acknowledges that entering into this enforceable undertaking has no operative force until accepted by ASIC.

Signed by: 

This 22 day of November 2002

At Melbourne

Australian Securities and Investments Commission

Accepted by the Australian Securities and Investments Commission pursuant to section 93AA of the Australian Securities and Investments Commission Act 2001 by its duly authorised delegate:



Jamie Orchard
Director
Enforcement – South West
Australian Securities and Investments Commission

This 5th day of DECEMBER 2002.