

ENFORCEABLE UNDERTAKING**AUSTRALIAN SECURITIES and 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:

A And A Gillon Pty Ltd
(ACN 057 974 660)
3 Leesa Court
NERANG QLD 4211

Allen Ray Gillon
3 Leesa Court
NERANG QLD 4211

Ann Gillon
3 Leesa Court
NERANG QLD 4211



1. **Background**
 - 1.1 A And A Gillon Pty Ltd (the company) was incorporated in New South Wales on 3 November 1992 and at all relevant times has carried on business in Queensland.
 - 1.2 At all relevant times Allen Ray Gillon and Ann Gillon (the directors) have been the only directors of the company.
 - 1.3 On 6 September 2002 the company registered the business name "Sharepro" in the State of Queensland.
 - 1.4 Since September 2001 the company has carried on a business of providing financial product advice via the internet. The company has established a website with the domain name *www.sharepro.com.au* (the website).
 - 1.5 The company has used the website to promote a product known as the "SharePro D5 analyzing formula". The website states *inter alia*:



"At the end of each trading day, we at SharePro enter closing prices from the Australian Stock Exchange (ASX) into our SharePro D5 analysing formula.

An Enter, Hold or Exit signal may result.

Selected shares and Options (our personal trades for the next day) are then displayed on a Spreadsheet page. We post these results every day on the Internet for SharePro Club members to discuss.

Clients pay a small monthly fee to access the Member's page and receive an updating email early each morning."

The website also invites new members to subscribe to the service provided and offers a 7 day free trial of the service.

1.6 ASIC has concerns that the company through its website is carrying on a Financial Services Business without holding an Australian Financial Services License (AFSL). Specifically:

- o that the company was providing financial product advice within the meaning given to that term by section 766B of the *Corporations Act 2001 (CA)*;
- o that section 766A CA provides that a person who provides financial product advice provides a financial service; and
- o that the company was providing a financial service in return for regular subscription fees paid by its members and as such was carrying on a financial services business within Australia whilst not being the holder of an AFSL in contravention of section 911A CA.

1.7 The company and the directors acknowledge ASIC's concerns as outlined in paragraph 1.6.

2. Undertakings

Pursuant to section 93AA of the Australian Securities and Investments Commission Act 2001, the company and its directors each offer the following undertakings to ASIC:

- 2.1 that the company will not offer financial product advice through the website or through any other website or via electronic mail or otherwise until such time as the company has obtained an appropriate AFSL;
- 2.2 that the directors will not offer financial product advice through the website or through any other website or via electronic mail or otherwise until such time as they are the holder of an appropriate AFSL or they are appointed representatives of the holder of an appropriate AFSL;



- 2.3 that the company and directors will not promote on the website or by any other means the SharePro D5 analyzing formula and that they have removed from the website any material promoting the SharePro D5 analysing formula including the statements and data referred to in paragraph 1.5 above;
- 2.4 that the company and directors will not accept subscriptions from members for the use of or access to the services or information provided as a result of the operation of the SharePro D5 analyzing formula;
- 2.5 that the company and directors have issued a statement on a prominent location on the website and will send, by no later than 23 December 2002, a notice to all current subscribers (including non paying subscribers) that:

The SharePro D5 analyzing formula and statements on the Sharepro website, purported to provide financial services advice in contravention of the licensing requirements of the Corporations Act 2001. The statements have been removed at the request of the Australian Securities and Investments Commission;

and that the company and directors will maintain the message on the website for a minimum of 3 months after the date of this undertaking;

- 2.6 that the company and directors will provide in a prominent location on the website a link to the ASIC FIDO website, which is to be maintained for a minimum of 3 months after the date of this undertaking; and
- 2.7 that the company and directors will within 1 month from the date of this undertaking refund to subscribers all subscription fees in relation to which the services paid for have not yet been provided.

3. Acknowledgements

- 3.1 The company and the directors acknowledge ASIC's concerns set out in this undertaking
- 3.2 The company and the directors acknowledge 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.



- 3.3 The company and the directors acknowledge that ASIC's acceptance of an enforceable 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.
- 3.4 The company and the directors acknowledge that ASIC's acceptance of an enforceable undertaking does not affect ASIC's power to investigate a contravention arising from future conduct, or pursue a criminal prosecution, or its power to lay charges or seek a pecuniary civil order.
- 3.5 The company and its directors acknowledge that this undertaking has no operative force until accepted by ASIC.

The common seal of A And A)
 GILLON PTY LTD was duly)
 affixed to this undertaking on)
 the 2nd day of January 2003)



in the presence of:

.....
 Director

.....
 Director/Secretary

Signed by ALLEN RAY)
 GILLON this 2nd day of)
 January 2003)

In the presence of:

.....
 (Witness)

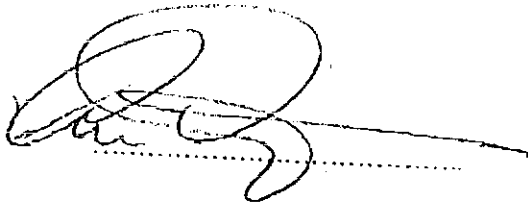
ANN GILLON
 (Name)

3 LEESA CAT

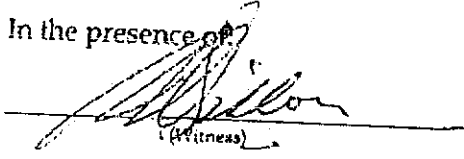
NERANG H211
 (Address)

.....

✓ Signed by ANN GILLON this
2nd day of January 2003)



In the presence of


(Witness)


ALLEN GILLON
(Name)

3 LEESA CRT.

NEARNG 4211
(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 14th day of January 2003


J Orchard
Director, Enforcement

