

## ENFORCEABLE UNDERTAKING

### Section 93AA

#### Australian Securities and Investments Commission Act 2001 ("ASIC Act")

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

#### **Robert Andrew Street ("Mr Street")**

Unit 1, 14 Carween Avenue,  
MITCHAM, VIC, 3132.

#### **1. Background**

##### 1.1 Mr Street:

- (a) was the holder of a proper authority from licensed securities dealer Grosvenor Securities Pty Ltd from 1 August 1996 until 29 October 2002;
- (b) was, at all material times, the sole director of Tira Pty Ltd;
- (c) is the sole director of Topco Investments Pty Ltd; and
- (d) is the sole director of Mark Paul & Associates Pty Ltd.

1.2 ASIC commenced an investigation and as a result of its investigation to date, ASIC is concerned that Mr Street, acting on behalf of Tira Pty Ltd, obtained more than \$700,000 from some of his clients. Mr Street then caused funds to be transferred or sent to overseas individuals or entities in connection with a proposal that may be generically described as a "Nigerian letter scam".

1.3 (a) On 26 November 2002 ASIC commenced proceedings in the Federal Court against Tira Pty Ltd and Mr Street (proceeding number V3237).

(b) On 10 December 2002 the Federal Court ordered by consent, amongst other things, that:

- (i) Tira Pty Ltd be placed into provisional liquidation;
- (ii) Mr Street be restrained until the hearing and determination of the proceeding or further order, from being in any way directly or indirectly involved in or a party to soliciting, receiving, holding, transferring or otherwise parting with money from any person or entity in connection with the supply or proposed supply of;

- a financial product (as defined by section 12BAA of the ASIC Act); or
- a financial service (as defined in section 12BAB of the ASIC Act).

## **2. Concerns of ASIC**

2.1 As a result of ASIC's investigation, ASIC is concerned that Mr Street may have contravened:

- (a) From 11 March 2002 to 29 October 2002, section 12DA of the ASIC Act by engaging in conduct in relation to financial services that was misleading or deceptive; and
- (b) From 11 March 2002 to 29 October 2002, section 12DB of the ASIC Act by falsely representing that, in connection with the supply or promotion of financial services, he had a sponsorship, approval or affiliation he did not have.

2.2 ASIC has the power pursuant to sections 920A and 920B of the Corporations Act 2001 to make an order banning a person from providing any financial services or specified financial services in specified circumstances or capacities either permanently or for a specified period.

2.3 ASIC has agreed to accept the commitments in this enforceable undertaking as an alternative to the exercise of the powers referred to in paragraph 2.2. above.

## **3. Undertakings**

3.1 Mr Street gives to ASIC and ASIC accepts the following enforceable undertaking pursuant to section 93AA of the ASIC Act.

3.2 Mr Street undertakes that from the time of signing this undertaking 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 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) provide a financial service (as defined in the Corporations Act 2001);
- (g) apply to ASIC under section 911A of the Corporations Act 2001 for an Australian financial services licence; and
- (h) become an authorised representative of an Australian financial services licence holder.

**4. Acknowledgement of ASIC's concerns**

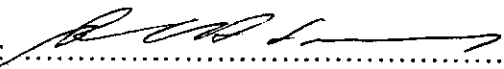
**4.1 Mr Street acknowledges that ASIC:**

- (a) may issue a media release on or at any time after the execution of this enforceable undertaking referring to its terms and the concerns of ASIC which led to the execution of this enforceable undertaking;
- (b) will make this enforceable undertaking available for public inspection and may enter Mr Street's name onto a register maintained by ASIC pursuant to section 922A(1) of the Corporations Act 2001; and
- (c) may from time to time publicly refer to this enforceable undertaking.

4.2 Mr Street acknowledges that ASIC's acceptance of an enforceable undertaking does not affect ASIC's power to pursue a criminal prosecution, or to lay charges, or to seek a pecuniary civil order, or to further investigate a contravention or contraventions arising from either the same conduct referred to in paragraphs 1 and 2 of this enforceable undertaking or arising from future conduct.

4.3 Mr Street acknowledges that entering into this enforceable undertaking in no way derogates from the rights and remedies available to any person, including ASIC, arising from any conduct described in this enforceable undertaking.

4.4 Mr Street acknowledges that entering into this enforceable undertaking has no operative force until accepted by ASIC. The signature of the authorised delegate will be evidence of such acceptance. The date of signing, as marked by the authorised delegate, will be the date on which this Enforceable Undertaking comes into effect.

Signed by:   
(Mr Robert Andrew Street)

This 28 day of MARCH 2003.

At: MELBOURNE

**Australian Securities and Investments Commission**

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



(Mr Mark Steward)

Acting Director

Enforcement – South West

Australian Securities and Investments Commission

This 31<sup>st</sup> day of March 2003.