

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ACT 2001****ENFORCEABLE UNDERTAKING BY KEVIN ALAN TREZONA TO THE
AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION GIVEN FOR
THE PURPOSES OF SECTION 93AA****1 Background**

- 1.1 Mr Kevin Alan Trezona ("Mr Trezona") was a proper authority holder of Investment Planners (Australia) Pty Ltd ("IPA"), the holder of dealer's licence No. 14254, in the period from 1 November 1989 to 29 June 2002.
- 1.2 In October 2001 the Australian Securities and Investments Commission ("ASIC") commenced an investigation into certain activities of IPA and Mr Trezona.
- 1.3 A hearing was subsequently conducted by ASIC into certain of those activities pursuant to Section 837 of the Corporations Act 2001. Because of ill health Mr Trezona did not attend nor give any evidence at that hearing. Mr Trezona's then solicitor, Mr Greg Paull, attended the hearing and was only able to make brief submissions in the absence of Mr Trezona.
- 1.4 On 17th day of January 2003 and following the hearing ASIC made a banning order against Mr Trezona pursuant to Section 829 of the Corporations Act 2001.
- 1.5 On 12 February 2003 Mr Trezona appealed the banning order to the Administrative Appeals Tribunal. Mr Trezona was represented at and adduced evidence and made submissions during the course of, the hearing of the appeal, which has been discontinued with the consent of the parties subject to this Enforceable Undertaking being entered into.
- 1.6 As a result of its investigations and having regard to the evidence and submissions considered during the course of the appeal ASIC remained concerned about the ability of Mr Trezona or entities associated with or controlled by him to hold an Australian Financial Services Licence.
- 1.7 Mr Trezona acknowledges that whilst a proper authority holder of IPA he may have breached the following sections of the Corporations Act or Corporations Law (as applicable):
 - Section 849 – failure to disclose adviser's interests that may influence a recommendation; and
 - Section 829(f) – failure to perform efficiently and fairly the duties of a proper authority holder of a dealer or of an investment adviser.

- 1.8 Mr Trezona also acknowledges ASIC's concern under section 829(g) that he may not perform efficiently and fairly the duties of a representative of a dealer or of an investment adviser in the future.
- 1.9 Mr Trezona, by entering into this Enforceable Undertaking, should not be construed that he admitted to a breach of the above sections.
- 1.10 Mr Trezona has offered, and ASIC has accepted, the commitments in this Enforceable Undertaking.

2. Undertakings

- 2.1 Mr Trezona provides the following undertakings for the purposes of section 93AA of the Australian Securities and Investments Commission Act 2001 ("ASIC Act"):

- 2.1.1 Mr Trezona will not apply for an Australian Financial Services Licence nor carry on or hold out that he carries on a financial services business in his own name or in the name of any company or entity of which he is a director or in which, directly or indirectly, he has an interest.

- 2.1.2 Mr Trezona will not:

- (1) prior to 17 January 2005 - provide financial services or financial product advice;
- (2) after 17 January 2005 provide financial services or financial product advice except as an authorised representative of a holder of an Australian Financial Services Licence ("AFSL"), being a holder in which he is neither a director or in which, directly or indirectly, he has an interest.

- 2.1.3 Mr Trezona will complete a course accredited by the Financial Planning Association of Australia or the Securities Institute of Australia and approved by ASIC in relation to regulation and ethics prior to applying, after 17 January 2005, to a holder of an AFSL to become a representative of such a licence holder.

- 2.1.4 Mr Trezona will inform each of the holders of an AFSL to whom he applies, after 17 January 2005, to become a representative of such a licence holder of the signing of this Enforceable Undertaking and will provide a full copy of this Enforceable Undertaking prior to commencing a role as a representative of such a licence holder.

- 2.1.5 Prior to commencing employment with the holder of an AFSL for whom Mr Trezona will be a representative, the holder of the AFSL shall nominate a director or a principal of the licence holder whom will be responsible for the supervision of Mr Trezona.

2.1.6 Mr Trezona acknowledges that ASIC's acceptance of this Enforceable Undertaking does not affect ASIC's power to investigate a contravention arising from any past, current or future conduct.

3. Acknowledgements

- 3.1 Mr Trezona acknowledges that ASIC:
 - may from time to time publicly refer to this Enforceable Undertaking;
 - may issue a media release on execution of this Enforceable Undertaking referring to its terms and concerns of ASIC which led to its execution;
 - will place a copy of the executed Enforceable Undertaking on a Public Register.
- 3.2 Mr Trezona acknowledges that ASIC's acceptance of this Enforceable Undertaking does not affect ASIC's power to investigate a contravention arising from future conduct.
- 3.3 Mr Trezona acknowledges that this 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 Enforceable Undertaking.
- 3.4 Mr Trezona acknowledges that this Enforceable Undertaking has no operative force until accepted by ASIC.

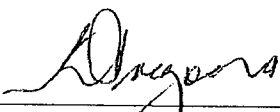
4. Counterparts

- 4.1 This Enforceable Undertaking:
 - may be executed in any number of counterparts;
 - will not be effective until signed by all parties hereto; and
 - all of those counterparts taken together shall constitute one and the same document.

EXECUTED by KEVIN ALAN TREZONA)
on this 25th November 2004)
in the presence of:)



Witness



Kevin Alan Trezona

CHRISTINA YEUK WING HUI
Name (please print)

ACCEPTED BY THE AUSTRALIAN SECURITIES AND INVESTMENTS
COMMISSION PURSUANT TO SECTION 93AA OF THE ASIC ACT BY ITS DULY
AUTHORISED DELEGATE:



Delegate's name and title

MARK STEWARD

Deputy Executive Director, Enforcement

11 November 2004