

**ENFORCEABLE UNDERTAKING**

*Australian Securities and Investments Commission Act 2001*

Section 93AA

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

**David William Wolstencroft**  
**C/- Vincent Volpe**  
**Level 1, 173 Queens Parade**  
**Clifton Hill VIC 3068**

**1. Definitions**

In addition to terms defined elsewhere in this undertaking, the following definitions are used:

**ASIC Act** means the *Australian Securities and Investments Commission Act 2001* (Cth)

**CALDB** means Companies Auditors and Liquidators Disciplinary Board

**Corporations Act** means the *Corporations Act 2001* (Cth)

**Mr Wolstencroft** means David William Wolstencroft, date of birth 4 February 1942

## 2. Background

### 2.1 ASIC's role

2.1.1 ASIC is responsible for the regulation of auditors who undertake audits for the purposes of the Corporations Act.

### 2.2 Details of Conduct

2.2.1 Mr Wolstencroft is a registered company auditor pursuant to section 1280 of the Corporations Act. Mr Wolstencroft first obtained his registration as an auditor on 25 February 1983 and holds registration number 8238.

2.2.2 Mr Wolstencroft operates as a sole practitioner. He is a member of CPA Australia. In his role as a registered company auditor, Mr Wolstencroft is required to comply with Australian Auditing Standards. Mr Wolstencroft is also required to ensure that financial statements audited by him comply with the Australian Accounting Standards.

### 2.3 ASIC's surveillance and analysis

2.3.1 ASIC conducted a surveillance in relation to two audits conducted by Mr Wolstencroft for the financial year ended 30 June 2006. One audit was in relation to a public company whilst the other was in relation to a proprietary company ("the Audits").

### 2.4 ASIC's concerns

2.4.1 ASIC contends that, as auditor of the companies referred to in paragraph 2.3.1, Mr Wolstencroft failed to carry out or perform adequately and properly the duties of an auditor, and the duties or functions required of a registered company auditor by the Corporations Act in relation to the Audits. ASIC contends that Mr Wolstencroft:-

- (a) in relation to the Audits:
- a. failed to consider materiality and its relationship with audit risk.
  - b. failed to perform and document a number of tasks when considering fraud during the Audits.
  - c. failed to obtain a management representation letter.
  - d. failed to communicate significant matters to an appropriate level of management and to document the subject matter of any oral reports to management regarding the significant matters.

- e. failed to use and document analytical procedures at the planning and overall review stages of the Audits.
- f. failed to perform and document certain tasks when obtaining an understanding of the entity and its environment and assessing the risks of material misstatement.
- g. failed to perform and document certain procedures in relation to related parties and related party transactions.
- h. failed to obtain a general understanding of the legal and regulatory framework applicable to the entity and perform and document procedures to identify instances of non-compliance with those laws and regulations.
- i. failed to obtain a representation letter from all solicitors with whom the companies had consulted.
- j. failed to evaluate whether the overall presentation of the financial reports were in accordance with the applicable financial reporting framework.
- k. failed to obtain external bank confirmations.
- l. failed to qualify his audit report due to the financial reports being non-compliant with AASB 116 *Property, Plant and Equipment* and AASB 138 *Intangible Assets*.

(b) solely in relation to the audit of the proprietary company:-

- a. failed to ensure that the financial reports were prepared in accordance with the Australian equivalents to the International Financial Reporting Standards.
- b. failed to qualify his audit report for non-compliance with AASB 107 *Cash Flow Statements*.
- c. failed to obtain sufficient audit evidence in relation to GST receivable, Prepayments, the Recoverability of the Entity's Patents and Trademarks and Trade Creditors and Accrued Expenses.

(c) solely in relation to the audit of the public company:-

- a. failed to qualify his audit report due to the financial reports being non-compliant with AASB 101 *Presentation of Financial Statements* and failed to determine if the comparatives disclosed agreed with the prior year financial report and whether the comparatives were free of material misstatement.
- b. failed to agree the terms of the audit engagement in writing with the entity.
- c. failed to obtain sufficient appropriate audit evidence to be able to draw reasonable conclusions on which to base the audit opinion.

## 2.5 Acknowledgement of concerns

2.5.1 Whilst Mr Wolstencroft does not agree with all of ASIC's concerns, he acknowledges ASIC's concerns and has offered, and ASIC has agreed to accept, enforceable undertakings in the terms of paragraph 3.1.

## 3. Undertakings

3.1 Under s93AA of the ASIC Act, Mr Wolstencroft has offered, and ASIC has agreed to accept as an alternative to ASIC making an application to the CALDB for an order pursuant to section 1292 of the Corporations Act, the following undertakings:-

- (a) within the next 7 days, Mr Wolstencroft will, pursuant to section 1290 of the Corporations Act, request ASIC to cancel his registration as an auditor; and
- (b) he will not reapply for registration as an auditor at any time.

## 4. Acknowledgements

4.1.1 Mr Wolstencroft acknowledges that ASIC:

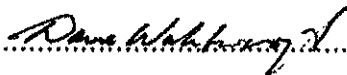
- (a) may issue a media release on execution of this undertaking referring to its terms and to the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this undertaking; and
- (c) will make this undertaking available for public inspection.

4.1.2 Further Mr Wolstencroft acknowledges that:

- (a) ASIC's acceptance of this undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil order in relation to any contravention not the subject of the background section of this enforceable undertaking or arising from future conduct;
- (b) 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 or arising from future conduct.

4.1.3 Mr Wolstencroft acknowledges that this undertaking has no operative force until accepted by ASIC, and Mr Wolstencroft and ASIC acknowledge that the

date of the enforceable undertaking is the date on which it is accepted by ASIC.

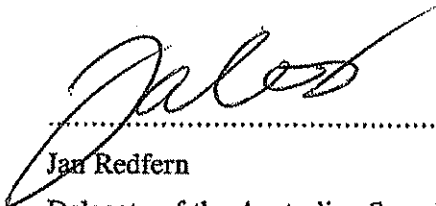
  
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David William Wolstencroft

Registered Company Auditor No. 8238

Dated this *24<sup>th</sup>* day of October 2007

Accepted by the Australian Securities and Investments Commission under s93AA of the ASIC Act by its duly authorised delegate:

  
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Jan Redfern

Delegate of the Australian Securities and Investments Commission

Dated this *24<sup>th</sup>* day of October 2007

