

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:

BARRY DAVID HASSELL

Address known to ASIC

1. Definitions

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

AFSL means Australian financial services licence.

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

BD & WJ Hassell means B.D. & W.J Hassell Pty Ltd ACN 007 824 393.

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

Corporations Regulations means the Corporations Regulations 2001 (Cth).

Mr Hassell means Barry David Hassell, date of birth 9 February 1950.

National Credit Act means the *National Consumer Credit Protection Act 2009* (Cth)

SOA means Statement of Advice.

101 Wealth Solutions means 101 Wealth Solutions Pty Ltd ACN 132 347 669, AFSL 338441.

2. ASIC's role

Under s1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

3. Mr Hassell's business

3.1 At various times since about 31 August 1988, Mr Hassell has carried on the business of Hassell-Free Insurance Services, either in his own capacity or as a director of BD & WJ Hassell.

3.2 Mr Hassell has been an authorised representative of the following Australian financial services licensees:

3.2.1 Pivotal Financial Advisers Ltd, AFSL 237857, between 16 March 2004 and 26 October 2004;

3.2.2 Guardian FP Ltd, AFSL 237641, between 8 November 2004 and 13 September 2006;

3.2.3 AAA Shares Pty Ltd, AFSL 222138, between 14 September 2006 and 3 September 2007;

3.2.4 AAA Financial Intelligence Ltd, AFSL 312478, between 3 September 2007 and 14 May 2010;

3.2.5 101 Wealth Solutions between 14 May 2010 and 28 March 2012.

3.3 Mr Hassell's representative number is 270905. His principal place of business is Suite 11, 67 Payneham Road, College Park, SA, 5069.

3.4 In Mr Hassell's capacity as a representative of 101 Wealth Solutions he was authorised to provide personal advice on superannuation, life risk insurance products, managed investments and basic deposit products.

3.5 From about 11 March 2002, Mr Hassell has provided financial services to retail clients, including personal advice in relation to life risk insurance, sickness and accident insurance and/or superannuation products.

3.6 The advice has included recommendations that clients dispose of, or reduce their interest in, particular products and instead acquire, or increase their interest in, other products.

4. ASIC's investigation

ASIC commenced its investigation into Mr Hassell on 2 September 2011.

5. ASIC's views

ASIC's view is that Mr Hassell:

5.1 provided advice in circumstances where he had not:

5.1.1 determined the relevant personal circumstances in relation to giving the advice;

- 5.1.2 made reasonable enquiries in relation to those personal circumstances;
 - 5.1.3 given such consideration to, and conducted such investigation of, the subject matter of the advice as was reasonable in all of the circumstances; and
- the advice was not appropriate to the client;
- 5.2 did not give clients SOAs, in circumstances where he was required by the Corporations Act to do so;
 - 5.3 did not retain SOAs or records of advice as required by the Corporations Act;
 - 5.4 did not give clients information about his remuneration (including commission) or other benefits, interests, associations or relationships that might reasonably be expected to have been capable of influencing him in providing advice;
 - 5.5 did not give clients information about charges, loss of pecuniary or other benefits, or any other significant consequences of taking the recommended action, where his advice included recommendations that clients dispose of, or reduce their interest in, particular products and instead acquire, or increase their interest in, other products;
 - 5.6 at times fabricated SOAs and other documents relating to the financial services he provided to clients, falsified the signatures of clients where appearing on those documents and made false or misleading statements in the documents.

6. Acknowledgement of ASIC's views

Mr Hassell acknowledges ASIC's views as set out in paragraph 5 above.

7. Undertakings

7.1 Under s93AA of the ASIC Act, Mr Hassell has offered, and ASIC has agreed to accept as an alternative to exercising its powers under s920A of the Corporations Act, the following undertaking:

7.1.1 Mr Hassell undertakes to not provide any financial services from the time of acceptance of this undertaking by ASIC.

7.2 Without in any way limiting the undertaking in paragraph 7.1 above, Mr Hassell undertakes, from the time of acceptance of this undertaking by ASIC not to:

7.2.1 do any act or engage in any conduct as a representative of an Australian financial services licensee or Australian credit licensee;

- 7.2.2 hold himself out as a representative of an Australian financial services licensee or Australian credit licensee;
 - 7.2.3 carry on a business in relation to financial products or financial services within the meaning of s761A of the Corporations Act or credit activities within the meaning of s6 of the National Credit Act, either directly or indirectly as a director, partner, manager, servant or agent;
 - 7.2.4 hold out that he is in any way authorised to provide a particular financial service or engage in a particular credit activity, or that he is in any way authorised to provide financial services or engage in credit activities generally; or
 - 7.2.5 apply to ASIC under s913A of the Corporations Act for an AFSL or s36 of the National Credit Act for an Australian credit licence.
- 7.3 for the avoidance of doubt the undertakings in paragraphs 7.1 and 7.2 above do not preclude or prevent Mr Hassell from seeking employment in the financial services industry in an administrative or clerical role provided that:
- 7.3.1 he informs any such employer of this undertaking and, if his employer is an authorised representative of one or more Australian financial services licensees, any such licensee; and
 - 7.3.2 he does not have any dealing with clients of any Australian financial services licensee or authorised representative for whom he is employed and otherwise does not provide in that role any financial services.
- 7.4 Mr Hassell undertakes to provide all documents and information as requested by ASIC from time to time for the purposes of assessing Mr Hassell's compliance with the terms of this enforceable undertaking.

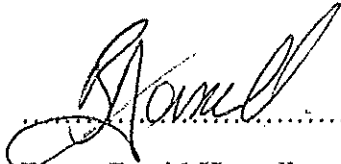
8. Notification to clients and transfer of records

- 8.1 Mr Hassell further undertakes to comply with subparagraphs 8.2 to 8.4.
- 8.2 Within 21 days of acceptance of this enforceable undertaking by ASIC, Mr Hassell will:
 - 8.2.1 use his best endeavours to identify all his current clients from his records;
 - 8.2.2 send to each of those persons by ordinary pre-paid post the letter at Annexure A. If a client's address cannot be obtained from Mr Hassell's records or the letter is returned unclaimed, he will follow the procedure in Annexure B;
 - 8.2.3 transfer all original client records he has retained for current and former clients to 101 Wealth Solutions. Mr Hassell may retain copies of any client records for the purpose of maintaining his business records as required by law.

- 8.3 Within 28 days of acceptance of this enforceable undertaking by ASIC, Mr Hassell will provide to ASIC a statutory declaration signed by himself, certifying compliance with subparagraph 8.2 and annexing:
- 8.3.1 a list of the names and addresses of clients to whom the letter at Annexure A has been sent;
 - 8.3.2 a list of the names of clients whose records have been transferred to 101 Wealth Solutions.
- 8.4 The statutory declaration referred to at subparagraph 8.3 is to be provided to ASIC at the following address:
- Senior Manager
Deterrence SA
Australian Securities and Investments Commission
GPO Box 9827
Adelaide SA 5001

9. Acknowledgements

- 9.1 Mr Hassell acknowledges that ASIC:
- 9.1.1 may issue a media release on execution of this undertaking referring to its terms and to the views of ASIC which led to its execution;
 - 9.1.2 may from time to time publicly refer to this undertaking; and
 - 9.1.3 will make this undertaking available for public inspection.
- 9.2 Further Mr Hassell acknowledges that:
- 9.2.1 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 or damages in relation to any contravention that is the subject of ASIC's views stated in this enforceable undertaking or any other conduct; and
 - 9.2.2 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.
- 9.3 Mr Hassell acknowledges that ASIC's views as to the alleged facts are reasonably held and has offered an enforceable undertaking in the terms of paragraph 7 above.
- 9.4 Mr Hassell acknowledges that this undertaking has no operative force until accepted by ASIC, and Mr Hassell and ASIC acknowledge that the date of the enforceable undertaking is the date on which it is accepted by ASIC.




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Barry David Hassell

Dated: 30/3/2012

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



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Mark Bielecki

Delegate of Australian Securities and Investments Commission

Dated: 30/3/2012

ANNEXURE A

[Address]

Dear [client]

Permanent undertaking to not provide any financial services

I advise that I have given an enforceable undertaking to the Australian Securities and Investments Commission (ASIC), in which I have permanently undertaken to not provide any financial services. A copy of the enforceable undertaking is available on the ASIC website, <http://www.asic.gov.au>, following the links to Publications and Media Centre.

Accordingly, I am unable to provide any further financial services to you. If you have any queries about the financial services I have provided to you, please contact 101 Wealth Solutions Pty Ltd, the Australian financial services licensee for whom I have been acting as an authorised representative until 28 March 2012. Contact details for that company are as follows:

101 Wealth Solutions Pty Ltd
PO Box 8280
Norwest Business Park
NSW 2153

Tel: 1300 101 101
Fax: 1300 101 100
Email: wealth@101group.com.au

If you require financial services in the future, you may wish to seek those from Mr Robert Daniel, Authorised Representative No 255870 of Charter Financial Planning Ltd. Mr Daniel's contact details are as follows:

Mr Robert Daniel
PO Box 4101
Norwood South SA 5067
Tel: 08 8264 0800
Email: christina@sasfinancialservices.com.au

Yours faithfully

Barry Hassell

ANNEXURE B

Procedure for contacting persons

- 1 In accordance with paragraph 8 of this undertaking, Mr Hassell will send the letter at Annexure A by ordinary pre-paid post to the most recent address Mr Hassell has recorded for each current client.
- 2 If the letter is returned, Mr Hassell will attempt to ascertain a current address for those persons by using the 'Change of Address' database provided by Australia Post. If Australia Post's 'Change of Address' database reveals a different address for any such persons, Mr Hassell will send the letter by ordinary pre-paid post to that different address.
- 3 If Australia Post notifies Mr Hassell that a person has changed address but has not given their consent to Australia Post to release their new details, Mr Hassell will use the 'Re-Connect' service provided by Australia Post to seek to obtain that new address.

Note: Australia Post's 'Re-Connect' service is a service whereby Australia Post writes to relevant persons advising them that Mr Hassell is trying to contact them, and asking for their consent to the release of their new address.

- (a) Before using Australia Post's 'Re-Connect' service, Mr Hassell will consult with ASIC and Australia Post on the content of any correspondence to be sent to persons using the 'Re-Connect' service.
 - (b) When using the 'Re-Connect' service, Mr Hassell will ask Australia Post to notify the person that the proposed communication relates to 'permanent undertaking given to the Australian Securities and Investments Commission to not provide any financial services'.
 - (c) If the person:
 - (i) consents to the release of their new address to Mr Hassell, he will send the letter at Annexure A by ordinary pre-paid post to that different address; or
 - (ii) does not consent to the release of their new address to Mr Hassell, he will follow the procedure in paragraphs 4-6.
- 4 Mr Hassell will carry out an Internet search of the Telstra White Pages On-Line at www.whitepages.com.au if:
 - (a) Australia Post's 'Change of Address' database and 'Re-Connect' service reveal no different addresses for those persons whose letter is returned; or
 - (b) a letter has been sent to an address revealed by the 'Change of Address' or 'Re-connect' service and has again been returned.
 - 5 If:

- (a) an entry which includes an address is found and that entry appears on reasonable grounds to correspond with the person sought, Mr Hassell will send the letter by ordinary pre-paid post to that address; or
 - (b) no entry which includes an address is found which appears on reasonable grounds to correspond with the person sought, Mr Hassell is not required to send the letter to that person, subject to paragraph 6.
- 6 Mr Hassell will send the letter by ordinary pre-paid post to the person if at any time within 18 months from the date of ASIC's acceptance of the undertaking:
- (a) a person for whom no address has been found contacts Mr Hassell; or
 - (b) Mr Hassell otherwise becomes aware of an address which he has reasonable grounds to suspect is the current address of the person.

