



L 913

## 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:

**PAUL MEIER**

Address known to ASIC

#### 1. Definitions

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

**AFS licence** means Australian financial services licence.

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

**BMIB** means Barker Meier Insurance Brokers Pty Limited (in Liquidation) ACN 054 105 289.

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

**Mr Meier** means Paul Meier, date of birth 23 February 1963.

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

**Premium Funding Pty Ltd** means Premium Funding Pty Ltd ABN 34057306171

#### 2. Background

##### 2.1. ASIC's role

2.1.1 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.

##### 2.2. Mr Meier's business

2.2.1 BMIB was incorporated on 8 November 1991.

2.2.2 Mr Meier is a director and 50% shareholder of BMIB.

- 2.2.3 BMIB held an AFS licence number 247135 from 5 January 2004 to 10 September 2012.
- 2.2.4 The AFS licence authorised BMIB to provide advice and deal in financial products being deposit products and general insurance products to retail and wholesale clients.
- 2.2.5 Mr Meier was the Responsible Manager under the terms of BMIB's AFS licence.
- 2.2.6 The primary business of BMIB was the provision of insurance broking services to members of the public. This business was conducted at the following premises:
- 207 Flinders St  
ADELAIDE SA  
and  
Level 1, 488 Bourke Street  
MELBOURNE VIC
- 2.2.7 From about 11 March 2002, Mr Meier has, in his capacity as a director of BMIB, provided financial services to retail clients, including personal advice in relation to life insurance, sickness and accident insurance and/or business insurance.
- 2.2.8 At various times, Mr Meier was also the financial controller of BMIB, and was responsible for the administration of BMIB's trust account in both the South Australian and Victorian offices of BMIB.

### **2.3. ASIC's investigation**

- 2.3.1 ASIC commenced its investigation into the conduct of Mr Meier on 27 September 2012.

### **2.4. ASIC's view**

- 2.4.1 ASIC's view is that:
- 2.4.1.1 on 16 occasions between 31 October 2010 – 20 November 2011, Mr Meier submitted loan applications to Premium Funding Pty Ltd containing false information;
- 2.4.1.2 the false loan applications referred to in subparagraph 2.4.1.1 caused Premium Funding to advance loan funds to Mr Meier;
- 2.4.1.3 the loan funds received by Mr Meier from Premium Funding were used by Mr Meier to meet the business expenses of BMIB and were therefore applied to the benefit of Mr Meier.

## **2.5. Acknowledgement of ASIC's views**

Mr Meier acknowledges ASIC's views as set out in paragraph 2.4 above.

## **3. Undertakings**

- 3.1. Under s93AA of the ASIC Act, Mr Meier has offered, and ASIC has agreed to accept as an alternative to exercising its powers under s920A of the Corporations Act and s80 of the National Credit Act, the following undertakings:
  - 3.1.1. Mr Meier undertakes to not provide any financial services from the time of acceptance of this undertaking by ASIC; and
  - 3.1.2. Mr Meier undertakes not to engage in a credit activity from the time of acceptance of this undertaking by ASIC.
- 3.2. Without in any way limiting the undertakings in paragraph 3.1 above, Mr Meier undertakes, from the time of acceptance of this undertaking by ASIC not to:
  - 3.2.1. do any act or engage in any conduct as a representative of an Australian financial services licensee or Australian credit licensee;
  - 3.2.2. hold himself out as a representative of an Australian financial services licensee or Australian credit licensee;
  - 3.2.3. 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;
  - 3.2.4. 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
  - 3.2.5. apply to ASIC under s913A of the Corporations Act for an AFSL or s36 of the National Credit Act for an Australian credit licence.
- 3.3. Mr Meier undertakes to provide all documents and information as requested by ASIC from time to time for the purposes of assessing Mr Meier's compliance with the terms of this enforceable undertaking.

## **4. Acknowledgements**

- 4.1. Mr Meier acknowledges that ASIC:
  - 4.1.1. 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;

4.1.2. may from time to time publicly refer to this undertaking; and

4.1.3. will make this undertaking available for public inspection.


4.2. Further Mr Meier acknowledges that:

4.2.1. 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 civil penalty 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

4.2.2. 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.

4.3. Mr Meier acknowledges that ASIC's views as to the alleged facts are reasonably held and has offered an enforceable undertaking in the terms of paragraph 3 above.

4.4. Mr Meier acknowledges that this undertaking has no operative force until accepted by ASIC, and Mr Meier and ASIC acknowledge that the date of the enforceable undertaking is the date on which it is accepted by ASIC.



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**Paul Meier**

**Dated:** ..... 16/1/2013 .....

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



.....  
Tim Mullaly  
~~David McGuinness~~

Delegate of Australian Securities and Investments Commission

**Dated:** ... 21/1/2013 .....