



S02433049

ASIC

Australian Securities & Investments Commission

INFRINGEMENT NOTICE

section 331 of the Act
paragraph 40(a) of the Regulations

Date of issue: 26 November 2012

Unique identification code: 25750/11A

TO: Fair Loans Foundation Ltd ACN 123 592 487
Unit 12, 12 Daintry Crescent
Randwick NSW 2031

1. I, David McGuinness, give this infringement notice under regulation 39 of the *National Consumer Credit Protection Regulations 2010*.
2. I have reasonable grounds to believe that you have committed the following offence:

On 30 November 2011, you contravened section 23(1)(c) of Schedule 1 to the *National Consumer Credit Protection Act 2009* (Cth) (**the National Credit Code**), which was an offence pursuant to section 24 of the National Credit Code, by imposing a monetary liability on a debtor in respect of an interest charge under a credit contract exceeding the amount that may be charged consistently with section 28(1)(a) of the National Credit Code.

The offence was committed in relation to a consumer credit contract entered into on 30 November 2011 by you as credit provider with customer number 5214, loan number 462, and titled "*Personal Loan Agreement – Consumer Fixed Rate Personal Loan*".

Penalty under this notice

3. The penalty for the alleged offence under this notice is \$2,200 for an individual or \$11,000 for a body corporate.

The applicable penalty in this notice is \$11,000

This penalty can be paid by (**see attached invoice for payment options**).

4. If you pay the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):
 - (a) any liability you have for the commission of the alleged offence will be discharged; and

- (b) you will not be prosecuted for the alleged offence; and
- (c) you will not be taken to have admitted guilt in respect of the alleged offence; and
- (d) you will not be taken to have been convicted of the alleged offence.

Consequences of failure to pay penalty under this notice

- 5. If you do not pay the penalty specified in this notice within the time for payment mentioned below, you may be prosecuted for the alleged offence.
- 6. The maximum penalty that a court may impose for this offence is 100 penalty units for an individual and 500 penalty units for a body corporate.
(1 penalty unit is \$110).

Time for payment

- 7. The time for payment is:
 - (a) within 28 days after the day on which the notice is given to you; or
 - (b) if you apply for a further period of time in which to pay the penalty, and the application is granted — within the further period allowed; or
 - (c) if you apply for a further period of time in which to pay the penalty, and the application is refused or is taken to have been refused — within the later of:
 - (i) 7 days after:
 - (A) the day you receive the notice of refusal; or
 - (B) the application is taken to have been refused; and
 - (ii) 28 days after the day on which the infringement notice was given to you; or
 - (d) if you apply for permission to pay the penalty by instalments, and the permission is granted — in accordance with the permission; or
 - (e) if you apply for permission to pay the penalty by instalments, and the permission is refused or is taken to have been refused — within the later of:
 - (i) 7 days after:
 - (A) the day you receive the notice of refusal; or
 - (B) the application is taken to have been refused; and
 - (ii) 28 days after the day on which the infringement notice was given to you; or
 - (f) if you apply for the notice to be withdrawn, and the application is refused or is taken to have been refused — within the later of:
 - (i) 7 days after:
 - (A) the day you receive the notice of refusal; or
 - (B) the application is taken to have been refused; and
 - (ii) 28 days after the day on which the infringement notice was given to you.

Further penalty for continuing offence

- 8. [Not applicable]

Applying to have this notice withdrawn

9. Within 28 days after you receive this notice, you may apply to the **Credit Infringement Notice Officer** to have this notice withdrawn.

The Credit Infringement Notice Officer is the nominated person for this notice

Applying for more time to pay the penalty under this notice

10. Within 28 days after you receive this notice, you may apply to the nominated person for a further period of up to 28 days in which to pay the penalty under this notice.

Applying to pay the penalty under this notice by instalments

11. Within 28 days after you receive this notice, you may apply to the nominated person for permission to pay the penalty under this notice by instalments.

Requirements for applications

12. An application to have this notice withdrawn, or for more time to pay the penalty under this notice, or for permission to pay the penalty under this notice by instalments:
- (a) must be in writing; and
 - (b) must include the unique identification code set out at the top of this notice; and
 - (c) must include your reasons for making the application; and
 - (d) for an application for permission to pay the penalty under this notice by instalments — include the proposed amount and frequency of instalments; and
 - (e) may be made by forwarding your application to:

Credit Infringement Notice Officer

Australian Securities and Investments Commission

GPO Box 9827

Melbourne VIC 3001

or by facsimile: (03) 9280 3444

or by email: CreditInfringementNotices@asic.gov.au



Signature of authorised ASIC officer issuing the notice