

## Infringement notice

section 12GXA of the ASIC Act

Day of issue: <sup>19</sup> December 2013

Unique identification code: B667429

TO: Jeremy (WA) Pty Ltd  
ACN 123 808 953  
32 Charles Street  
SOUTH PERTH WA 6151

1. ASIC issues this infringement notice under section 12GXA of the *Australian Securities and Investments Commission Act 2001* (the *ASIC Act*).
2. ASIC has reasonable grounds to believe that you have contravened an infringement notice provision as follows:

**Between 6 March 2013 and 19 July 2013 ("Relevant Period"), you contravened paragraph 12DB(1)(i) of the ASIC Act by, in trade or commerce, in connection with the supply or possible supply of financial services, or in connection with the promotion by any means of the supply or use of financial services, making a false or misleading representation concerning a condition of the supply of financial services and/or the existence and effect of a guarantee.**

### Particulars

**During the Relevant Period, you made representations on your websites, being [www.yes-loans.com.au](http://www.yes-loans.com.au) and [www.guaranteedcarfinance.com.au](http://www.guaranteedcarfinance.com.au), to the effect that you offered "guaranteed car finance". In particular:**

- (a) The [www.yes-loans.com.au](http://www.yes-loans.com.au) website contained a page titled "Guaranteed Car Finance" which made the following statements:
  - i. "If guaranteed car finance, [sic] seems too good to be true then you've been looking in all the wrong places";
  - ii. "Just makes [sic] sure that your desperation doesn't make you blind to the repayments and terms of taking out the guaranteed car finance loan"; and
  - iii. "Make sure that you read all the terms and conditions properly, before agreeing to take out a [sic] guaranteed car finance with Yes Loans..."; and
- (b) The [www.guaranteedcarfinance.com.au](http://www.guaranteedcarfinance.com.au) domain name address was a representation as to the nature of the services offered by you and moreover the website contained headline banners on each constituent page headed with the title "Guaranteed Car Finance".

Those representations were false and misleading because an offer of finance cannot be guaranteed by reason of the *National Consumer Credit Protection Act 2009* (Cth) which prohibits licensed credit providers from:

- i. Entering into credit contracts with consumers without first assessing the suitability of the contract and making reasonable enquiries about the consumer; and
- ii. Entering into unsuitable credit contracts with consumers.

#### **Penalty under this notice**

3. The penalty under this notice is \$10,200.

This penalty is payable to ASIC on behalf of the Commonwealth.

This penalty can be paid using one of the methods detailed in the enclosed invoice.

#### **Consequences of complying with this notice**

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 alleged contravention of the infringement notice provision will be discharged; and
  - (b) no proceedings (whether criminal or civil) will be brought against you by the Commonwealth or ASIC for the alleged contravention of the infringement notice provision or an offence constituted by the same conduct; and
  - (c) you will not be regarded as having contravened the infringement notice provision or having been convicted of an offence constituted by the same conduct.

#### **Consequences of failing to comply with this notice**

5. If you do not pay the penalty specified in this notice within the time for payment mentioned below, and the notice is not withdrawn, the Commonwealth or ASIC may bring proceedings under Subdivision G of Part 2, Division 2 of the ASIC Act (whether criminal or civil) against you for the alleged contravention of the infringement notice provision or offence constituted by the same conduct.
6. The maximum pecuniary penalty that a court may order you to pay for the alleged contravention is \$1.1 million.

#### **Time for payment**

7. The time for payment is:
  - (a) within 28 days after the day on which the notice is issued to you; or
  - (b) if ASIC extends, by notice in writing the compliance period for this notice, within that further period allowed.

#### **Applying for more time to pay the penalty under this notice**

8. ASIC may extend the compliance period for this infringement notice if ASIC is satisfied that it is appropriate to do so. The extension must not be for longer than 28 days.

9. If you wish to apply for an extension of time to pay the penalty specified in this notice, you should do so in writing within 28 days after the day the notice is issued to you (see paragraph 15).

**Applying to have this notice withdrawn**

10. Within 28 days after the day on which this notice is issued, you may apply to ASIC in writing to have this notice withdrawn (see paragraph 15).
11. Evidence or information that you give to ASIC in the course of applying for this notice to be withdrawn is not admissible in evidence against you or your representative in any proceedings (other than proceedings for an offence based on the evidence or information being false or misleading).

**Withdrawal of this notice**

12. ASIC may, by written notice given to you, withdraw this infringement notice if ASIC is satisfied that it is appropriate to do so, whether or not you have applied to have this notice withdrawn.
13. A withdrawal notice must be given to you within the time for payment of this infringement notice to be effective.
14. If the withdrawal notice is given after you have paid the penalty specified in this infringement notice, ASIC will refund to you the amount paid under the infringement notice.

**Requirements for applications**

15. An application to have this notice withdrawn, or for more time to pay the penalty under this notice:
- (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) may be made by forwarding your application to ASIC at the address in paragraph 16.

**Contact details**

16. You may contact ASIC in relation to this notice by contacting:

**Christian Groves**  
**Australian Securities and Investments Commission**  
**GPO Box 9827**  
**Melbourne Vic 3001**  
**or by facsimile: (03) 9280 3444**  
**or by email: [ACLInfringementNotices@asic.gov.au](mailto:ACLInfringementNotices@asic.gov.au)**



Peter Kell  
as a delegate of the Australian Securities and Investments Commission