



M00889613

Infringement notice

section 12GXA of the *Australian Securities and Investments Commission Act 2001*

Day of issue: February 2014

Unique identification code: B716146

TO: SuperHelp Australia Pty Ltd
ACN 061 126 663
14 Elizabeth Street
Allawah NSW 2218

1. ASIC issues this infringement notice (the **notice**) under section 12GXA of the *Australian Securities and Investments Commission Act 2001* (the **ASIC Act**).
2. ASIC has reasonable grounds to believe that SuperHelp Australia Pty Ltd (**SuperHelp Australia**) has contravened section 12DB(1)(i) of the ASIC Act which is an infringement notice provision as follows:
 - (a) On or around 18 October 2013, SuperHelp Australia contravened section 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 the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy (including an implied warranty under section 12ED).
 - (b) In particular, SuperHelp Australia, in an advertisement at page 45 of the October 2013 edition of the Australian Financial Review's Smart Investor Magazine (the **advertisement**)¹, made representations about the self-managed superannuation fund (SMSF) administration and accounting services it provides including:
 - (i) "Fund Setup FREE**"
 - (ii) "Annual Administration \$950**"
 - (iii) "Pension Setup FREE**"
 - (iv) "**Conditions apply"
 - (c) The advertisement does not specify the nature of the conditions that apply.

¹ A copy of the advertisement is attached at Appendix A.

- (d) SuperHelp Australia's website at www.superhelp.com.au provides further information on the costs involved with establishing an SMSF using SuperHelp Australia's services:
- (i) investors must pay half the annual administration fee upfront (i.e. \$475 of the \$950 (incl GST) fee) to be eligible for free Fund Setup². (The administration fee covers the annual SMSF audit, tax return and lodgement with the Australian Taxation Office for an SMSF with 2 members and up to 12 investments. It does not cover financial advice).
 - (ii) investors must pay a \$195 (incl GST) fee for Pension Setup if they are under 60 years of age³.
- (e) Although the words "*Conditions apply" appeared in the advertisement, the advertisement was false or misleading because:
- (i) Fund Setup was only free if certain conditions were fulfilled (the investor paid half the administration fee in advance and did not seek to establish a fund with more than 2 members or more than 12 investments).
 - (ii) Pension Setup for persons under the age of 60 was not free under any circumstances.

Penalty under this notice

3. The penalty payable 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 SuperHelp Australia pays 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) no proceedings (whether criminal or civil) will be brought against SuperHelp Australia by the Commonwealth or ASIC for the alleged contravention of the infringement notice provision or an offence constituted by the same conduct; and
- (b) SuperHelp Australia 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 SuperHelp Australia does 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 Division 2 of Part 2 of the ASIC Act (whether criminal or civil) against it for the alleged contravention of the infringement notice provision.

² <http://www.superhelp.com.au/our-services/fund-setup/>

³ <http://www.superhelp.com.au/our-services/setup-pension/>

6. The maximum pecuniary penalty that a court may order SuperHelp Australia to pay for the alleged contravention is \$1.7 million.

Time for payment

7. The time for payment is:
 - (a) within 28 days beginning on the day after the day on which the notice is issued to SuperHelp Australia; 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 SuperHelp Australia wishes to apply for an extension of time to pay the penalty specified in this notice, it should do so in writing within 28 days after the day the notice was issued to it (see paragraph 15).

Applying to have this notice withdrawn

10. Within 28 days beginning on the day after the day on which this notice is issued, SuperHelp Australia may apply to ASIC in writing to have this notice withdrawn.
11. Evidence or information that SuperHelp Australia or its representative gives to ASIC in the course of applying for this notice to be withdrawn is not admissible in evidence against SuperHelp Australia or its 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 SuperHelp Australia, withdraw this infringement notice if ASIC is satisfied that it is appropriate to do so, whether or not SuperHelp Australia has applied to have this notice withdrawn.
13. A withdrawal notice must be given to SuperHelp Australia within the time for payment of this infringement notice to be effective, that is, within 28 days beginning on the day after this infringement notice was issued.
14. If the withdrawal notice is given after SuperHelp Australia has paid the penalty specified in this infringement notice, ASIC will refund the amount paid by SuperHelp Australia 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 SuperHelp Australia's reasons for making the application; and

(d) may be made by forwarding the application to ASIC at the address in paragraph 16.

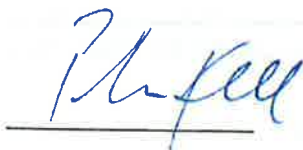
16. You may contact ASIC in relation to this notice by contacting:

contact: **Ai-Lin Lee**

by mail: **Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 3000**

or by facsimile: **(03) 9280 3444 (marked 'Attention Ai-Lin Lee')**

or by email: **Ai-Lin.Lee@asic.gov.au**

A handwritten signature in blue ink, appearing to read 'Peter Kell', is written over a horizontal line.

Signature of delegate issuing the notice

Peter Kell

as a delegate of the Australian Securities and Investments Commission

Appendix A:

SuperHelp Australia Pty Ltd's advertisement published on page 45 of the October 2013 edition of the Australian Financial Review's Smart Investor Magazine:



The advertisement is a vertical banner with a dark blue background. At the top is the SuperHelp logo, which includes a stylized blue and red icon above the text 'SuperHelp' and 'SUPERHELP AUSTRALIA PTY LTD' in smaller text below. Below the logo is the slogan 'Help is here' in large white font, with 'Self-Managed Super Funds' in smaller red font underneath. A central badge features the text 'HIGHLY smartInvestor SMART PROVIDERS COMMENDED' with 'smartInvestor' in a larger font. Below this are three orange rounded rectangular boxes: 'Fund Setup FREE *', 'Annual Administration \$950 *', and 'Pension Setup FREE *'. At the bottom, there is a white box containing contact information for a free seminar, including a phone number, website, and physical address. A small asterisked note at the very bottom states '* Conditions apply'.

SuperHelp
SUPERHELP AUSTRALIA PTY LTD

'Help is here'
Self-Managed Super Funds

HIGHLY
smartInvestor
SMART PROVIDERS
COMMENDED

Fund Setup **FREE ***

Annual Administration **\$950 ***

Pension Setup **FREE ***

Contact us to attend our
Free Seminar

Ph: 1300 736 453
www.superhelp.com.au
Superhelp Australia Pty. Ltd.
P.O. Box 208
Hurstville B.C., NSW 1481

* Conditions apply