

Infringement notice

Day of issue: 3 March 2014

Unique identification code: B735726

TO: Wealth Within Ltd
ACN 088 389 913
Level 1
270 Auburn Road
HAWTHORN VIC 3122

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 Wealth Within Ltd ("WWL") contravened an infringement notice provision as follows:

Between 30 June 2011 and 5 March 2013, WWL contravened s12DB(1)(e) 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 (in the form of **Annexure A – Advertisement 1**) on the website www.wealthwithin.com.au as to the performance characteristics and benefits of the Direct Equity Managed Account Service.

Particulars

- A. The figures published in Advertisement 1 which purported to be the 8 Yr Total Return and the Average Annual Return for each of the Blue Chip Portfolio and the Growth Portfolio were false and misleading in that they did not take into account the returns on the cash holdings in each Portfolio. The failure to take into account the returns on cash holdings meant that the published 8 Yr Total Return and Average Annual Return figures:
 - (i) did not accurately reflect the overall performance of each Portfolio; and
 - (ii) overstated the true returns and performance of each Portfolio.
- B. Further, the figures published in Advertisement 1 which purported to be the Average Annual Returns for each Portfolio were false and misleading in that they were calculated using the arithmetic average of the 8 Yr Total Return for each Portfolio. This method of calculation did not take into account the compounding effect of each year of investment in a Portfolio, meaning that the published Average Annual Return overstated the true average annual return for each Portfolio.

Penalty under this notice

3. The penalty payable under this notice in relation to the alleged contravention 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the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):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) 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
 - (b) 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 Division 2 of Part 2 the consumer protection provisions 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 \$1,700,000.

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.
11. Evidence or information that you or your representative gives 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.
16. You may contact ASIC in relation to this notice by contacting:

Catherine Iles

Australian Securities and Investments Commission

GPO Box 9827

MELBOURNE VIC 3000

or by facsimile: (03) 9280 3444

or by email: ACLInfringementNotices@asic.gov.au



Signature of delegate issuing the notice

Peter Kell

as a delegate of the Australian Securities and Investments Commission

ANNEXURE A – ADVERTISEMENT 1

Historical Performance

Delivering consistent returns that outperform the Australian market is what sets Wealth Within apart. Below are the Portfolios that Wealth Within has been managing since April 2003.

Audited Returns to 6 April 2011

PKF Chartered Accountants & Business Advisors ('PKF'), a major Australian and global accounting firm, have audited the results of our portfolios and have verified both the performance methodology and accuracy of the results for the period from inception (7 Apr 03) to 6 April 2011.

View the  [Performance Methodology](#).

Read the findings of the  [PKF Review](#).

Portfolio	8 Yr Total Return	Average Annual Return
Blue Chip	116.46%	14.56%
Growth	186.83%	23.35%

Represents the average annual change in capital value per annum net of fees and brokerage. Assumes reinvestment of income. 8 year return to 6 Apr 11.

[Returns audited](#) by PKF Chartered Accountants. Past Performance is no indication of future performance.

Wealth Within manages individual accounts, so each account may display different results.