



**IN THE FEDERAL COURT OF AUSTRALIA  
NEW SOUTH WALES DISTRICT REGISTRY  
GENERAL DIVISION**

**No: NSD1696/2010**

**IN THE MATTER OF: THE HUBB ORGANISATION PTY LTD ACN 087 234 599**

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION  
Plaintiff**

**THE HUBB ORGANISATION PTY LTD  
Defendant**

**ORDER**

**JUDGE:** Justice Emmett

**DATE OF ORDER:** 15 April 2011

**WHERE MADE:** Sydney

**THE COURT ORDERS THAT:**

1. The following definitions apply in these consent orders:
  - (a) *ASIC Act* means the *Australian Securities and Investments Commission Act 2001* (Cth).
  - (b) *Corporations Act* means the *Corporations Act 2001* (Cth).
  - (c) *Hubb* means The Hubb Organisation Pty Ltd ACN 087 234 599.
  - (d) *Introductory Seminar* means a 2 hour seminar to which complimentary admission is offered by Hubb to members of the public, by advertisement or unsolicited letter.
  - (e) *SITM Active Trader Program* means an educational product promoted and offered by Hubb for sale to attendees at the Introductory Seminar under the name "Active Trader Program" for a cost or retail value of between \$3,995 and \$6,480 and consisting of:



- (i) a "Smarter Starter Pack", comprising a manual explaining the SITM Methodology, instructional DVDs, a CD-Rom containing the Smarter Starter software, wall charts and blank charting paper (*SITM Smarter Starter Pack*);
  - (ii) unlimited admissions to a 2-day "Trading Tactics" seminar at which the SITM Methodology as explained in the SITM Smarter Starter Pack is demonstrated and discussed (*Trading Tactics Seminar*); and
  - (iii) access to a members' website located at [www.safetyinthemarket.com.au](http://www.safetyinthemarket.com.au) with online support from trading tutors in utilising the SITM Methodology as explained in the SITM Smarter Starter Pack.
- (f) *SITM Business* means the business conducted by Hubb of selling to members of the public training programs, software and related materials relating to trading in financial products under the business name "Safety in the Market".
- (g) *SITM Methodology* means the training programs, software and related materials sold by Hubb in the course of the SITM Business which teach and utilise trading techniques and strategies associated with W. D. Gann and consist of rules for the identification of trading opportunities from observation of patterns in historical security price movements.

BY CONSENT THE COURT DECLARES THAT:

1. By publishing the advertisements and by making the statements set out in Annexure A to this Order, Hubb represented that the SITM Smarter Starter Pack sold within the SITM Active Trader Program was based upon a "proven system", a "proven methodology" and a "proven approach to profitable trading".
2. In the circumstances, Hubb engaged in conduct that was misleading or deceptive or likely to mislead or deceive in contravention of section 12DA of the ASIC Act and section 1041H of the Corporations Act.



BY CONSENT THE COURT ORDERS THAT:

3. Hubb will not represent expressly or by implication that the SITM Methodology is a proven methodology for profitable trading in financial products and will ensure that such representations in relation to the SITM Methodology do not appear on any website it maintains for the SITM Business.
4. Hubb will, at its own expense and as soon as reasonably practicable after the making of these orders:
  - (a) send a notice by ordinary post to the last known address of all persons who have purchased the SITM Active Trader Program in the form set out in Annexure B;
  - (b) in the event that a notice sent in accordance with (a) is returned to Hubb, Hubb will engage the National Change of Address Service provided by Australia Post for the purpose of ascertaining the last recorded address of the person to whom that notice had been sent and, if a new address is identified, send to that address a notice by ordinary post in the form set out in Annexure B; and
  - (c) in the event that a person who contacts Hubb in response to the advertisement referred to in order 6 has not received a notice sent in accordance with (a) or (b), send that person a notice by ordinary post in the form set out in Annexure B.
5. Hubb will include a disclaimer on all advertising and promotional material for the SITM Business to the effect that the SITM Methodology is not a proven methodology for profitable trading in financial products.
6. Hubb will, at its own expense and as soon as reasonably practicable after the making of these orders, publish once by advertisement in a daily newspaper generally circulating in each Australian State and Territory a statement in the form set out in Annexure C.
7. Hubb will, on each website it maintains for the SITM Business:



- (a) disclose that the SITM Methodology is not a proven methodology for profitable trading in financial products; and
  - (b) disclose, until 31 December 2012, that the Federal Court of Australia has made declarations by consent that Hubb had engaged in conduct that was misleading or deceptive or likely to mislead or deceive.
8. The disclosure in paragraph 7(a) will be in the form set out in Annexure D and the disclosure in paragraph 7(b) will be in the form set out in Annexure C.
9. The proceedings be otherwise dismissed with no order as to costs.

Date that entry is stamped:

19 APR 2011



Deputy District Registrar



## ANNEXURE A

1. The following statements published on Hubb's website during the period from at least 6 March 2009 to about December 2010:

- a. *"Use the proven trading strategies of a true Super Trader"*
- b. *"Our on-going success is built upon on [sic] a tried and proven methodology"*
- c. *"Founded in 1989 by super-trader David Bowden, Safety in the Market is Australia's leading stock market education organisation. And with proven strategies, and a wealth of experience, you're in safe hands."*
- d. *"The program combines the proven methods of our Smarter Starter Pack home study course, with the convenience and benefits of live, online trading".*

2. The following published statements made by Hubb:

- a. *"Let us show you why our proven system has worked for so many," and "Our FREE 2-hour Trading with Safety Seminar will introduce you to a proven approach to profitable trading that works in up or down markets,"* published in advertisements in the following newspapers on the following dates:

The West Australian on 15 and 22 July 2008 and 6, 7, 11, 13, 14 and 17 October 2008

The Sunday Times on 27 July 2008

The Sunday Telegraph on 10 August 2008

The Australian Financial Review on 11, 18, 19 August 2008 and 15, 22, 23, 29 and 30 September 2008

The Sydney Morning Herald on 11 August 2008

The Daily Telegraph on 13, 19, 20, 25 August 2008

The Advertiser on 10 and 20 September 2008

The Herald Sun on 16, 17 and 23 September 2008

The Age on 29 September 2008

The Courier Mail on 29 and 30 September 2008 and 1, 6 and 13 October 2008



- b. *"With proven strategies, and a wealth of experience, you're in safe hands,"* published in advertisements in the following newspapers on the following dates:

The Courier-Mail on 30 December 2008, 17, 21 and 23 March 2009, 25 June 2009, 29 November 2009, 24 March 2010 and 16 June 2010

The Australian Financial Review on 5 and 12 January 2009, 16 March 2009, 9, 14 and 20 April 2009, 29 September 2009 and 4 February 2010

The Age on 6 and 13 January 2009

The Herald Sun on 8 January 2009, 15 April 2009, 1 July 2009, 5 October 2009 and 8 February 2010

The Sunday Times on 1 February 2009 and 4 October 2009

The Sunday Mail on 15 March 2009 and 4 April 2010

The Sunday Herald Sun on 12 April 2009

The Advertiser on 21 April 2009, 14 October 2009 and 18 February 2010

The Sun Herald on 9 and 23 August 2009 and 31 January 2010

The Daily Telegraph on 17 August 2009, 2 February 2010 and 4 May 2010

The West Australian on 28 June 2010

- c. *"Safety in the Market offers an effective, easy to follow proven trading system with courses for both new and experienced investors" and "the case for investing with a proven plan"* published in advertisements in the following newspapers on the following dates:

The Australian on 18, 20, 25 and 27 April 2007 and 2 May 2007

The Australian Financial Review on 24 and 25 April 2007, 1, 7 and 14 May 2007 and 7, 13 and 14 October 2007

- d. *"Safety in the Market offers an effective, easy to follow trading system that has been proven to work in markets across the globe"* published in advertisements in the following newspapers on the following dates:

The Australian Financial Review on 4 August 2006

The Australian on 28 March 2007



- e. *"our proven trading strategies can help you realise your financial goals sooner"* made in television advertisements on the following networks on the following dates:

The Nine Network (Melbourne) on 6 January 2009, 16 April 2009 and 4 November 2010

The Ten Network (Melbourne) on 2 April 2009

The Nine Network (Sydney) on 21 May 2009

The Nine Network (Brisbane) on 5 January 2010

Sky News on 29 June 2010

3. The following statement made in presentation slides for the Introductory Seminar:

- a. *"Unique, Proven Trading Techniques"*





## ANNEXURE B - NOTICE TO SAFETY IN THE MARKET CUSTOMERS

*[On letterhead of The Hubb Organisation Pty Ltd]*

### NOTICE TO SAFETY IN THE MARKET CUSTOMERS

The Federal Court of Australia has declared that The Hubb Organisation Pty Ltd ("**Hubb**") has in its advertising and promotional material in relation to the SITM Smarter Starter Pack, sold within the SITM Active Trader Program, and at seminars, engaged in conduct that was misleading or deceptive or likely to mislead or deceive. The declaration was made by consent in proceedings filed by the Australian Securities and Investments Commission ("**ASIC**"). Hubb and ASIC have agreed to the entry of consent orders which require Hubb, amongst other things, to send this letter to you.

The basis for the declaration was as follows:

- Hubb represented that the SITM Smarter Starter Pack, sold within the SITM Active Trader Program, was based upon a "proven system", a "proven methodology" and a "proven approach to profitable trading". In doing so, Hubb represented to members of the public that users of the SITM Smarter Starter Pack would be able to trade profitably in financial products based on a proven methodology.
- However, Hubb did not have evidence that the SITM Smarter Starter Pack teaches, or otherwise provides, a proven methodology for profitable trading in financial products.

#### ***How This Affects You***

If you believe that you have suffered loss or damage by reason of any of the representations, you have the following options:





#### **A: Make a claim to Hubb**

You may make a claim to Hubb seeking compensation for your loss. Hubb may accept your claim, in part or in full, or reject it.

If you wish to make a claim to Hubb, you should contact Hubb's Complaints Manager on 1800 622 858 or [clientservices@safetyinthemarket.com.au](mailto:clientservices@safetyinthemarket.com.au). Hubb will assess your claim and notify you whether your claim has been accepted.

#### **B: Make a claim to the Financial Ombudsman Service**

The Financial Ombudsman Service is an ASIC approved external dispute resolution service for the financial services industry. There are no costs associated with making a claim to the Financial Ombudsman Service.

#### **C: Make a claim through the Courts**

You may be able to make a claim against Hubb for compensation through the Court system. You should consider consulting (at your own expense) with a private solicitor if you wish to pursue this course of action.

If you would like to see the full terms of the consent orders agreed upon between Hubb and ASIC please go to [www.asic.gov.au](http://www.asic.gov.au).

If you have purchased the SITM Active Trader Program and would like to discuss the contents of this letter further please contact Hubb's Complaints Manager on 1800 622 858 or [clientservices@safetyinthemarket.com.au](mailto:clientservices@safetyinthemarket.com.au).



## ANNEXURE C

The Federal Court of Australia has declared that The Hubb Organisation Pty Ltd ("**Hubb**") has in its advertising and promotional material in relation to the SITM Smarter Starter Pack, sold within the SITM Active Trader Program, and at seminars, engaged in conduct that was misleading or deceptive or likely to mislead or deceive. The declaration was made by consent in proceedings filed by the Australian Securities and Investments Commission ("**ASIC**"). Hubb and ASIC have agreed to the entry of consent orders which require Hubb, amongst other things, to publish this advertisement.

The basis for the declaration was as follows:

- Hubb represented that the SITM Smarter Starter Pack, sold within the SITM Active Trader Program, was based upon a "proven system", a "proven methodology" and a "proven approach to profitable trading". In doing so, Hubb represented to members of the public that users of the SITM Smarter Starter Pack would be able to trade profitably in financial products based on a proven methodology.
- However, Hubb did not have evidence that the SITM Smarter Starter Pack teaches, or otherwise provides, a proven methodology for profitable trading in financial products.

If you have purchased the SITM Active Trader Program, believe that you have suffered loss or damage, and would like to discuss the contents of this advertisement further please contact Hubb's Complaints Manager on 1800 622 858 or [clientservices@safetyinthemarket.com.au](mailto:clientservices@safetyinthemarket.com.au).

## ANNEXURE D



The SITM Methodology is not a proven methodology for profitable trading in financial products.