

ENFORCEABLE UNDERTAKING

Australian Securities and Investments Commission Act 2001

Section 93AA

AND

National Consumer Credit Protection Act 2009

Section 322

The commitments in this undertaking are offered to the Australian Securities and Investments Commission by:

Albin Rudolph Buchner

Unit 2, 21-23 Flinders Parade, North Lakes QLD 4509

1. Definitions

In addition to terms defined elsewhere in this undertaking, the following definitions are used:

ACL means an Australian Credit Licence;

AFSL means an Australian Financial Services Licence;

ASIC means the Australian Securities and Investments Commission;

ASIC Act means the *Australian Securities and Investments Commission Act 2001* (Cth);

charges means the charges preferred against Mr Buchner by the QPS, details of which are set out at paragraph 2.2.2 of this Enforceable Undertaking;

Corporations Act means the *Corporations Act 2001* (Cth)

Corporations Regulations means the *Corporations Regulations 2001* (Cth);

Court means the District Court of Queensland (or such other court, including an appeal court) before which the charges will be heard and determined;

Credit Act means the *National Consumer Credit Protection Act 2009* (Cth);

Criminal Code means The Criminal Code attached as Schedule 1 to the *Criminal Code Act 1899* (Qld);

Mr Buchner means Albin Rudolph Buchner;

QPS means Queensland Police Service; and

Relevant Period means 22 March 2010 to 17 December 2010.

2. Background

2.1 ASIC's role

2.1.1 Under section 1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

2.2 Details of Conduct

2.2.1 On 26 March 2014 Mr Buchner was charged by the QPS with three counts of contravening section 408C of the Criminal Code (**the charges**). The charges relate to Mr Buchner's alleged dishonest conduct involving loans from a number of financial institutions.

2.2.2 Specifically, the charges preferred against Mr Buchner are as follows:

- (a) Charge 1 - That between the 22nd day of March 2010 and the 11th day of May 2010 at West End in the State of Queensland one Albin Buchner dishonestly obtained a sum of money namely \$350000 from Bank of Queensland and the property to Albin Buchner from the dishonesty was of a value or more than \$30000 namely \$350000;
- (b) Charge 2 – That between the 22nd day of March 2010 and the 29th day of May 2010 at West End in the State of Queensland one Albin Buchner dishonestly obtained a sum of money namely \$98000 from Bank of Queensland and the property to Albin Buchner from the dishonesty was of a value or more than \$30000 namely \$98000; and
- (c) Charge 3 – That between the 1st day of November 2010 and the 17th day of December 2010 at West End in the State of Queensland one Albin Buchner dishonestly obtained a sum of money namely \$400000 from Peter George Radford and the property to Albin Buchner from the dishonesty was of a value of more than \$30000 namely \$400000.

2.3 ASIC's investigation

2.3.1 On 29 April 2014 ASIC received information from the QPS disclosing that Mr Buchner was the subject of the charges. As a result of receiving this information, ASIC commenced an investigation on 29 May 2014.

2.3.2 ASIC's investigations revealed the following in relation to Mr Buchner.

- a) Between 15 October 2013 and 31 July 2014, Mr Buchner was an Authorised Representative of Australian Life Insurance Distribution Pty Ltd, the holder of an AFSL.

- b) Between 29 August 2013 and 23 June 2014, Mr Buchner was a Credit Representative of Connective Credit Services Pty Ltd, the holder of an ACL.
- c) Bold Finance Pty Ltd has been a Credit Representative of Connective Credit Services Pty Ltd since 28 August 2013.
- d) Mr Buchner was a director of Bold Finance Pty Ltd from 12 August 2013 to 25 August 2014.

2.4 ASIC's concerns

- 2.4.1 The charges concern serious offences of dishonesty alleged against Mr Buchner.
- 2.4.2 Due to the serious nature of the charges, ASIC believes it is not appropriate for Mr Buchner to provide financial services or engage in credit activity until the outcome of the charges is known.

2.5 Acknowledgement of concerns

- 2.5.1 2.5.1 Mr Buchner acknowledges the concerns held by ASIC, as stated in paragraph 2.4, and considers that those concerns are reasonable.

2.6 Undertakings

Under section 93AA of the ASIC Act

- 2.6.1 Under section 93AA of the ASIC Act, Mr Buchner has offered, and ASIC has agreed to accept the following undertakings.
 - (a) From the date this Enforceable Undertaking is accepted by ASIC and until 30 days after the expiration of any appeal period that may apply in relation to the Court dealing with the charges:
 - (i) Mr Buchner will not seek to be appointed as an Authorised Representative of any AFSL holder;
 - (ii) Mr Buchner will not seek to be appointed as a director of any company that is an AFSL holder or an Authorised Representative of an AFSL holder;
 - (iii) Mr Buchner will not apply for an AFSL; and
 - (iv) Mr Buchner will not be employed in any capacity in which he is likely to be dealing or otherwise engaged with the provision of financial services as defined in the Corporations Act.

Under section 322 of the Credit Act

- 2.6.2 Under section 322 of the Credit Act, Mr Buchner has offered, and ASIC has agreed to accept the following undertakings.
- (a) From the date this Enforceable Undertaking is accepted by ASIC and until 30 days after the expiration of any appeal period that may apply in relation to the Court dealing with the charges :
 - (i) Mr Buchner will not seek to be appointed as a Credit Representative of any ACL holder;
 - (ii) Mr Buchner will not seek to be appointed as a director of any company that is an ACL holder or a Credit Representative of an ACL holder;
 - (iii) Mr Buchner will not apply for an ACL; and
 - (iv) Mr Buchner will not be employed in any capacity in which he is likely to be engaging in credit activity as defined in the Credit Act.

3. Acknowledgements

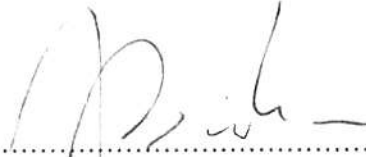
3.1 Mr Buchner acknowledges that ASIC:

- (a) may issue a media release on execution of this Enforceable Undertaking referring to its terms and to the concerns of ASIC which led to its execution;
- (b) may from time to time, in any manner it considers to be reasonable, publicly refer to or report upon this Enforceable Undertaking, without further reference to Mr Buchner; and
- (c) will make this Enforceable Undertaking available for public inspection.

3.2 Further Mr Buchner acknowledges that:

- (a) ASIC's acceptance of this Enforceable Undertaking does not affect ASIC's power to further investigate the alleged contraventions the subject of ASIC's concerns in this Enforceable Undertaking or any other conduct of Mr Buchner (whether within the Relevant Period or otherwise) and to take any other action it is legally entitled to take;
- (b) ASIC's acceptance of this Enforceable Undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil penalty order in relation to any contravention not the subject of ASIC's concerns in this Enforceable Undertaking or arising from future conduct; and

- (c) this Enforceable Undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this Enforceable Undertaking or arising from future conduct.
- 3.3 Mr Buchner acknowledges that ASIC had reason to be concerned as to the alleged facts and has offered an enforceable undertaking in the terms of paragraphs 3.1 and 3.2.
- 3.4 ASIC acknowledges that Mr Buchner:
- (a) voluntarily ceased association with Connective Credit Services Pty Ltd on 23 June 2014;
 - (b) voluntarily ceased to be a Credit Representative of Connective Credit Services Pty Ltd on 16 July 2014; and
 - (c) resigned as a director of Bold Finance Pty Ltd on 25 August 2014.
- 3.5 Mr Buchner acknowledges that this Enforceable Undertaking has no operative force until accepted by ASIC, and Mr Buchner and ASIC acknowledge that the date of this Enforceable Undertaking is the date on which it is accepted by ASIC.


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Albin Rudolph Buchner

Dated: 30-09-2014

Accepted by the Australian Securities and Investments Commission under section 93AA of the ASIC Act and under section 322 of the Credit Act by its duly authorised delegate:


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David McGuinness
Delegate of Australian Securities and Investments Commission

Dated: 8/10/2014