



ENFORCEABLE UNDERTAKING

Australian Securities and Investments Commission Act 2001

Section 93AA

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

JOANNE KENG YEE LOH (Ms Loh)
c/-LSH Accounting, 235 Princes Drive, Morwell VIC 3840

Definitions

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

2011 Audit means the audit of the financial report of Gippsland Secured Investments Limited (Receivers & Managers appointed) ACN 004 860 057 for the year ended 30 June 2011.

2011 Financial Report means the financial report of Gippsland Secured Investments Limited (Receivers & Managers appointed) ACN 004 860 057 for the year ending 30 June 2011.

2012 Audit means the audit of the financial report of Gippsland Secured Investments Limited (Receivers & Managers appointed) ACN 004 860 057 for the year ended 30 June 2012.

2012 Financial Report means the financial report of Gippsland Secured Investments Limited (Receivers & Managers appointed) ACN 004 860 057 for the year ending 30 June 2012.

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

AASB means the Australian Accounting Standards Board.

ASA means the Australian Auditing Standards.

CALDB means the Companies Auditors and Liquidators Disciplinary Board.

Commencement Date means the date this enforceable undertaking is accepted by ASIC.

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

GSI means Gippsland Secured Investments Limited (Receivers & Managers appointed) ACN 004 860 057.

BACKGROUND

ASIC's role

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. ASIC is also responsible for the registration of company auditors under Part 9.2 of the Corporations Act. A registered auditor must satisfy specified educational and practical experience standards and be otherwise a fit and proper person to be registered as an auditor, and in forming an opinion about whether financial statements audited by them comply with the AASB and present a true and fair view, must comply with the ASA.
3. ASIC is empowered to bring disciplinary proceedings pursuant to section 1292(1)(d)(i) of the Corporations Act in the CALDB against registered auditors who have failed to adequately and properly carry out or perform the duties of an auditor.

Details and role of Ms Loh

4. Ms Loh is an auditor registered pursuant to section 1280 of the Corporations Act. Ms Loh was registered on 16 March 1993 and issued with auditor registration number 56707.
5. Ms Loh is a member of Chartered Accountants Australia and New Zealand.
6. Ms Loh is and was at all relevant times a partner of LSH Accounting.
7. At all relevant times LSH Accounting was engaged by GSI as the audit firm.
8. Section 307A(2) of the Corporations Act provides that if an audit firm conducts an audit of the financial report for the financial year, the lead auditor must ensure that the audit is conducted in accordance with the ASA.
9. Ms Loh was the lead auditor as defined in section 324AF(1) of the Corporations Act and was primarily responsible to the audit firm for the conduct of the 2011 Audit and the 2012 Audit.
10. Ms Loh, as lead auditor, provided unmodified audit opinions in respect of GSI for the 2011 Audit and the 2012 Audit.

GSI

11. GSI was incorporated in 1970 as an unlisted public company with activities predominantly in the Gippsland region of Victoria.
12. The principal business of GSI involved raising funds from retail investors investing in debenture notes issued by GSI. The funds raised through the issue of debenture notes were used to lend or advance loans to third party borrowers, primarily for property investment purposes. Such loans were secured by registered mortgages granted by the third party borrowers in favour of GSI.
13. In the 2011 Financial Report, GSI reported approximately \$100 million of loan receivables, \$186,867 of provision for doubtful debts and \$25,679,154 of cash and cash equivalents.
14. In the 2012 Financial Report, GSI reported approximately \$128.9 million of loan receivables, \$1,872,968 of provisions for doubtful debts and \$18,437,828 of cash and cash equivalents.
15. On 3 September 2013, Receivers and Managers (**R&Ms**) were appointed to GSI following concerns that GSI's equity may have been inadequate and that GSI's loan asset impairment provisions may have been insufficient, including concerns as to the quality and suitability of a number of valuation reports relied upon by GSI for monitoring loan collateral.
16. As at the date of the R&Ms' appointment, GSI's primary asset was its interest in its loan book. The GSI loan book comprised of 232 loans and had a face value totalling approximately \$117 million.

ASIC's CONCERNS

17. In March 2014, ASIC commenced an investigation into the conduct of the 2011 Audit and 2012 Audit by Ms Loh.
18. As a result of the investigation, ASIC is concerned that as lead auditor, Ms Loh did not ensure that the 2011 Audit and 2012 Audit were conducted in accordance with the ASA, as required by section 307A of the Corporations Act, as in conducting each audit she failed to:
 - 18.1. design and perform audit procedures for the purpose of obtaining sufficient appropriate audit evidence, as required by paragraph 6 of *ASA 500 Audit Evidence (ASA 500)*, with respect to the following:
 - 18.1.1 verifying the existence of loan receivables and obtaining reasonable assurances about the valuations of loan receivables; and

- 18.1.2 documenting evidence regarding team discussions on risk of material misstatement and fraud.
- 18.2. display an appropriate level of professional scepticism (by relying too heavily on management's representations) as required by paragraph 15 of ASA 200 *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with the Australian Auditing Standards (ASA 200)*:
 - 18.2.1 when auditing the valuation of loan receivables and the provision for impairment;
 - 18.2.2 when assessing if all related party transactions had been adequately disclosed in the financial reports; and
 - 18.2.3 when assessing GSI's ability to continue as a going concern;
- 18.3. obtain sufficient appropriate audit evidence to reduce audit risk to an acceptably low level and to obtain assurance about whether the 2011 Financial Report and 2012 Financial Report were free from material misstatement when verifying the existence and valuation of loan receivables, as required by paragraphs 11 and 17 of ASA 200;
- 18.4. ensure that sufficient and appropriate documentation was prepared in relation to enquiries made of: (i) management's process for identifying and responding to the risks of fraud in GSI; and (ii) management and others within the entity to determine whether they had knowledge of any actual, suspected or alleged fraud affecting GSI, as required by paragraph 8 of ASA 230 *Audit Documentation (ASA 230)*;
- 18.5. obtain sufficient audit evidence of discussions among the engagement team in accordance with paragraph 15 of ASA 240 *The Auditor's Responsibilities Relating to Fraud in an Audit of a Financial Report (ASA 240)* and paragraph 10 of ASA 315 *Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment*, regarding how and where the 2011 Financial Report and 2012 Financial Report may be susceptible to material misstatement due to fraud, including how fraud might occur, as required by paragraphs 4 and 6 of ASA 500.
- 18.6. perform substantive audit procedures to test the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the 2011 Financial Report and 2012 Financial Report to address the risks related to management override of controls, as required by paragraph 32 of ASA 240 and paragraphs 18 and 20 of ASA 330 *The Auditor's Responses to Assessed Risks*;

- 18.7. adequately communicate on a timely basis with those charged with governance at GSI regarding the 2011 Audit and 2012 Audit, as required by paragraphs 21, 22 and 23 of ASA 260 *Communication with Those Charged with Governance*.
- 18.8. obtain a general understanding of the legal and regulatory framework applicable to GSI, and to perform and document specified audit procedures and discussions with management to help identify instances of non-compliance with laws and regulations, including those that may have a material effect on the 2011 Financial Report and 2012 Financial Report, as required by paragraphs 12 to 14 and 29 of ASA 250 *Consideration of Laws and Regulations in an Audit of a Financial Report*;
- 18.9. prepare audit documentation in accordance with paragraph 8 of ASA 230 sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:
 - 18.9.1 the nature, timing and extent of the audit procedures performed to comply with the ASA and applicable legal and regulatory requirements;
 - 18.9.2 the result of the audit procedures performed and the audit evidence obtained; and
 - 18.9.3 significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
- 18.10. evaluate and identify whether related party relationships and transactions had been appropriately disclosed in the financial reports of GSI as required by paragraphs 15, 20, 25 and 28 of ASA 550 *Related Parties*, by failing to disclose in the 2011 Financial Report and 2012 Financial Report that:
 - 18.10.1 Riviera Properties Limited (**Riviera**) was a related party of GSI and paid GSI interest of \$823,000 and \$1,066,000 respectively during the 2011 and 2012 financial years, being interest for a loan facility provided by GSI to Riviera; and
 - 18.10.2 GSI director John Stephenson was also a director of Riviera;in circumstances where the 2011 and 2012 financial reports of Riviera, of which Ms Loh was the lead auditor, disclosed those related party relationships and transactions.

- 18.11. obtain sufficient appropriate audit evidence about whether events had occurred that may require adjustment or disclosure and perform an adequate level of work on subsequent events, as required by paragraphs 6 and 7 of ASA 560 *Subsequent Events*;
 - 18.12. adequately assess whether there were events or conditions that cast significant doubts on GSI's ability to continue as a going concern, and if such events or conditions were identified, obtain appropriate audit evidence to determine whether or not material uncertainty existed, as required by paragraphs 10, 16 and 17 of ASA 570 *Going Concern (ASA 570)*;
 - 18.13. perform audit procedures in order to identify litigation and claims involving GSI which may give rise to a risk of material misstatement, as required by paragraph 3 of ASA 502 *Audit Evidence - Specific Considerations for Litigation and Claims*.
19. By reason of the matters outlined in paragraph 18, ASIC has formed the view that the 2011 Audit and 2012 Audit were not conducted in accordance with the ASA and Ms Loh failed to carry out or perform adequately and properly the duties of an auditor within the meaning of section 1292(1)(d)(i) of the Corporations Act.

ACKNOWLEDGMENT OF CONCERNS

- 20. Ms Loh acknowledges ASIC's concerns detailed in paragraph 18, and acknowledges that they are reasonably held.

UNDERTAKINGS

- 21. Under section 93AA of the ASIC Act, Ms Loh has offered and ASIC has agreed to accept the following undertakings as an alternative to ASIC making an application to the CALDB for an order under section 1292(1) of the Corporations Act in respect to the matters referred to in paragraph 18 above.
- 22. Pursuant to section 1290 of the Corporations Act, Ms Loh will, within 7 days of the Commencement Date, request ASIC to cancel her registration as an auditor by lodging with ASIC a duly completed Form 905, accompanied by the prescribed fee.
- 23. Following cancellation of her registration as a registered auditor, Ms Loh will not ever:
 - 23.1. re-apply for registration as an auditor under the Corporations Act; or

- 23.2. perform any duty or function which requires the person performing such duty or function to be registered as an auditor under the Corporations Act and, for the avoidance of any doubt, this includes acting as a review auditor as defined in section 324AF(2) of the Corporations Act.
24. Ms Loh will provide all documents and information requested by ASIC from time to time for the purpose of assessing Ms Loh's compliance with the terms of this enforceable undertaking.
25. Ms Loh will pay the costs of compliance with this enforceable undertaking.

ACKNOWLEDGEMENTS

26. Ms Loh acknowledges that ASIC:
 - 26.1. may issue a media release on acceptance of this enforceable undertaking referring to its terms and to the concerns of ASIC which led to ASIC's acceptance of this enforceable undertaking;
 - 26.2. may from time to time publicly refer to this enforceable undertaking; and
 - 26.3. will make this enforceable undertaking available for public inspection.
27. Ms Loh also acknowledges that:
 - 27.1. ASIC's acceptance of this enforceable undertaking does not affect ASIC's power to investigate, conduct a surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil order in relation to any contravention not the subject of the background section of this enforceable undertaking or arising from future conduct; and
 - 27.2. 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.
28. Ms Loh acknowledges that pursuant to section 127(4)(d) of the ASIC Act, ASIC may refer documentation relating to the matters that led to ASIC's acceptance of this enforceable undertaking to relevant professional bodies.

- 29. Ms Loh acknowledges that this enforceable undertaking has no operative force until accepted by ASIC, and Ms Loh and ASIC acknowledge that the date of the enforceable undertaking is the date on which it is accepted by ASIC.
- 30. ASIC acknowledges that nothing in this document constitutes any admission of liability by Ms Loh.


NOTIFICATION

- 31. The address for providing ASIC with any document or notification required by the enforceable undertaking is:

The Senior Manager
 Financial Report & Audit
 Australian Securities & Investments Commission
 GPO 9827
 Melbourne VIC 3001

- 32. The address for providing Ms Loh with any document or notification required by the enforceable undertaking is:


Joanne Keng Yee Loh
 LSH Accounting
 235 Princes Drive
 Morwell VIC 3840



Joanne Keng Yee Loh

Dated: 4 / 12 / 14

Accepted by the Australian Securities and Investments Commission under s93AA of the ASIC Act by its duly authorised delegate:



George Stogdale
 Delegate of Australian Securities and Investments Commission

Dated: 10 December 2014