



P00436204

## Infringement notice

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

Day of issue: 6 May 2015

Unique identification code: D189299

TO: Australian Property Alliance Pty Ltd  
(ACN 102 889 896)  
180 Newcastle Street  
Perth WA 6000

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 you have contravened an infringement notice provision as follows:

**Between about 14 May 2014 and 16 October 2014 (the relevant period), you contravened paragraph 12DB(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 false and/or misleading representations with respect to the performance characteristics, uses and benefits of services available from the Nicheliving group of companies.**

#### Particulars

**During the relevant period, you published 'posts' on the Facebook page of Nicheliving containing representations to the effect that viewers could invest in property from only \$59 per week (the investment representations). In some instances this was labelled as an after tax figure.**

**The investment representations were false and/or misleading because they were predicated on undisclosed assumptions and qualifications underpinning a negative gearing investment strategy requiring the viewer to enter into a mortgage to finance the purchase of the property and to pay an upfront investment of \$35,000.**

**Those qualifications would likely operate to exclude a large proportion of consumers who might otherwise construe the advertisements as meaning that:**

- (a) anyone with a disposable income of \$59.00 per week (either before or after tax) could invest in property;
- (b) the sum of \$59.00 represented the net out of pocket weekly expense required for the investment; and/or
- (c) the investment did not entail or require any peripheral financial services or financial products.

**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:

**Credit Infringement Notice Officer**  
**Australian Securities and Investments Commission**  
**GPO Box 9827**  
**Melbourne Vic 3001**  
**or by facsimile: (03) 9280 3444**  
**or by email: [CreditInfringementNotices@asic.gov.au](mailto:CreditInfringementNotices@asic.gov.au)**



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Peter Kell  
as a delegate of the Australian Securities and Investments Commission



P00436205

## Infringement notice

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

Day of issue: 6 May 2015

Unique identification code: D189300

TO: Australian Property Alliance Pty Ltd  
(ACN 102 889 896)  
180 Newcastle Street  
Perth WA 6000

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 you have contravened an infringement notice provision as follows:

**Between about 14 May 2014 and 16 October 2014 (the relevant period), you contravened paragraph 12DB(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 false and/or misleading representations with respect to the performance characteristics uses and benefits of services available from the Nicheliving group of companies.**

#### Particulars

**During various periods within the relevant period, you published 5-second, 15-second and 30-second advertisements on various commercial television channels, including:**

- (a) Network 10;
- (b) Channel Gem;
- (c) Channel 9;
- (d) Channel 1; and
- (e) Channel 11.

**The 5-second advertisements featured Ryan Campbell against a red backdrop with the headline claim viewers could "Invest from \$59 pw after tax!"**

**The 15-second advertisements featured the headline claim "Invest from \$59pw after tax" with a disclaimer beneath it in small font disclosing some of the conditions predicating the claim.**

**The 30-second advertisements were similar to the 15-second advertisements in that they also featured the headline claim "Invest from**

**\$59pw after tax" with a disclaimer beneath it in small font disclosing some of the conditions predicated the claim.**

**(together, the investment representations)**

**The investment representations were false and/or misleading because they were predicated on undisclosed or inadequately disclosed assumptions and qualifications underpinning a negative gearing investment strategy requiring the viewer to enter into a mortgage to finance the purchase of the property and to pay an upfront investment of \$35,000.**

**Those qualifications would likely operate to exclude a large proportion of consumers who might otherwise construe the advertisements as meaning that:**

- (a) anyone with a disposable income of \$59.00 per week (either before or after tax) could invest in property;**
- (b) the sum of \$59.00 represented the gross out of pocket weekly expense required for the investment; and/or**
- (c) the investment did not entail or require any peripheral financial services or financial products.**

#### **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:

**Credit Infringement Notice Officer**  
**Australian Securities and Investments Commission**  
**GPO Box 9827**  
**Melbourne Vic 3001**  
**or by facsimile: (03) 9280 3444**  
**or by email: [CreditInfringementNotices@asic.gov.au](mailto:CreditInfringementNotices@asic.gov.au)**

A handwritten signature in cursive script, appearing to read 'Peter Kell', written in black ink. The signature is positioned above a horizontal line.

**Peter Kell**  
as a delegate of the Australian Securities and Investments Commission



P00436206

## Infringement notice

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

Day of issue: 6 May 2015

Unique identification code: D189301

TO: Australian Property Alliance Pty Ltd  
(ACN 102 889 896)  
180 Newcastle Street  
Perth WA 6000

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 you have contravened an infringement notice provision as follows:

**Between about 14 May 2014 and 16 October 2014 (the relevant period), you contravened paragraph 12DB(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 false and/or misleading representations with respect to the performance characteristics, uses and benefits of services available from the Nicheliving group of companies.**

#### Particulars

**During various periods within the relevant period, you published advertisements on several websites:**

- (a) <http://www.nicheliving.com.au>;
- (b) <http://www.nichelivinginvestments.com.au>; and
- (c) <http://www.fifosmart.com.au>

**with headline claims containing representations viewers could "Invest from \$59 pw after tax!" or "Get your own investment property from \$59 per week!" (the investment representations).**

**The investment representations were false and/or misleading because they were predicated on undisclosed or inadequately disclosed assumptions and qualifications underpinning a negative gearing investment strategy requiring the viewer to enter into a mortgage to finance the purchase of the property and to pay an upfront investment of \$35,000. Those qualifications would likely operate to exclude a large proportion of consumers who might otherwise construe the advertisements as meaning that:**

- (a) anyone with a disposable income of \$59.00 per week (either before or after tax) could invest in property;



**(b) the sum of \$59.00 represented the gross out of pocket weekly expense required for the investment; and/or**

**(c) the investment did not entail or require any peripheral financial services or financial products.**

**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:

**Credit Infringement Notice Officer  
Australian Securities and Investments Commission  
GPO Box 9827  
Melbourne Vic 3001  
or by facsimile: (03) 9280 3444  
or by email: [CreditInfringementNotices@asic.gov.au](mailto:CreditInfringementNotices@asic.gov.au)**



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Peter Kell  
as a delegate of the Australian Securities and Investments Commission



P00436207

## Infringement notice

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

Day of issue: 6 May 2015

Unique identification code: D189303

TO: Australian Property Alliance Pty Ltd  
(ACN 102 889 896)  
180 Newcastle Street  
Perth WA 6000

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 you have contravened an infringement notice provision as follows:

**Between about 14 May 2014 and 16 October 2014 (the relevant period), you contravened paragraph 12DB(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 false and/or misleading representations with respect to the performance characteristics, uses and benefits of services available from the Nicheliving group of companies.**

#### Particulars

**From 1 August 2014 to 10 September 2014, you published a video advertisement on the video streaming website YouTube containing the representation viewers could "Invest from \$59 per week after tax" (the investment representation).**

**The investment representation was false and/or misleading because the investment representation was predicated on undisclosed assumptions and qualifications underpinning a negative gearing investment strategy requiring the viewer to enter into a mortgage to finance the purchase of the property and to pay an upfront investment of \$35,000.**

**Those qualifications would likely operate to exclude a large proportion of consumers who might otherwise construe the representation as meaning that:**

- (a) anyone with a disposable income of \$59.00 per week (either before or after tax) could invest in property;
- (b) the sum of \$59.00 represented the gross out of pocket weekly expense required for the investment; and/or
- (c) the investment did not entail or require any peripheral financial services or financial products.

**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:

**Credit Infringement Notice Officer  
Australian Securities and Investments Commission  
GPO Box 9827  
Melbourne Vic 3001  
or by facsimile: (03) 9280 3444  
or by email: [CreditInfringementNotices@asic.gov.au](mailto:CreditInfringementNotices@asic.gov.au)**



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Peter Kell  
as a delegate of the Australian Securities and Investments Commission