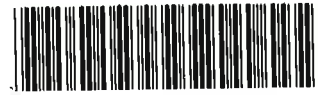




ASIC

Australian Securities & Investments Commission



S02177554

INFRINGEMENT NOTICE

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

Day of issue: 31 August 2015
Unique identification code: A4572963

TO: O.C.M. Online Capital Markets Pty Ltd
ACN 140 899 476
Level 2, 19-21 Hunter Street,
SYDNEY NSW 2000 Australia

1. ASIC issues this infringement notice under section 12GXA of the *Australian Securities and Investments Commission Act 2001 (ASIC Act)*.
2. ASIC has reasonable grounds to believe that you have contravened an infringement notice provision as follows:

In February 2015, 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 a false or misleading representation that services had sponsorship, approval, performance characteristics, uses or benefits.

Particulars

As a result of your instructions, in February 2015, a third party publisher sent an email to a number of recipients. In the email you made a representation in connection with the promotion of the supply of financial services or use of financial services supplied by you:

"\$2,533 in Just 7 Days!

Participate in online trading, choose from dozens of currencies, commodities, stocks, and indices through our CFD service.

Get to know the features and benefits we offer to make your trading simple."

XFOREX

(the Representation)

ASIC is concerned that the Representation was likely to lead an ordinary reasonable consumer to believe that your services could be used to obtain substantial profits, quickly.

The Representation was misleading because:

- (a) **your service cannot be relied upon to provide substantial profits, quickly as trading in Margin Foreign Exchange Derivatives and Contracts For Difference (CFD) is high risk, highly volatile and does not guarantee profits;**
- (b) **you failed to give due emphasis to the risks of using the services supplied by you because;**
 - i. **the statement that "CFD Trading involves a high level of risk" was not sufficiently prominent to prevent the Representation being misleading because, although it was on the same email, it was in small print, in a dense block, with no asterisk or other indicator linking this statement with the Representation;**
 - ii. **the statement "Trading involves potential loss of invested capital" was not sufficiently prominent to prevent the Representation being misleading because, although it was on the same email, it was in small print with no asterisk or other indicator linking this statement with the Representation. Further, trading using your services involved the potential for the loss of more than the invested capital.**

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:

Connie Godwin

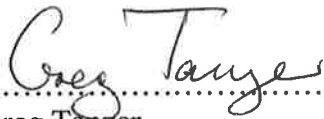
Australian Securities and Investments Commission

GPO Box 9827

SYDNEY 2000

Or by facsimile: (02) 99112414

or by email: ACLInfringementNotices@asic.gov.au



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Greg Tanzer

as a delegate of the Australian Securities and Investments Commission