



Infringement notice

section 331 of the Act
paragraph 40(a) of the Regulations

Date of issue: 5 February 2016

Unique identification code: R20160000042694

TO: Australia New Zealand Banking Group Limited (ACN 005 357 522) (ANZ):

1. I, David John McGuinness, give this infringement notice under regulation 39 of the *National Consumer Credit Protection Regulations 2010* (Cth) (the **Regulations**).
2. I have reasonable grounds to believe that you have contravened the *National Consumer Credit Protection Act 2009* (Cth) (the **Act**) as follows:

During the period 10 November 2014 to 27 February 2015, as a holder of an Australian Credit Licence No 234527 pursuant to s 35 of the Act, you engaged in conduct contrary to s 128 of the Act, by entering into a credit contract (the **Contract**) on 27 February 2015 with Paul Damian Brown (the **Customer**) without, pursuant to s 128, having made the inquiries and verification in accordance with section 130(2) of the Act, in particular, reg 28JA of the Regulations.

The Contract was a credit contract within the meaning of s 4 of the National Credit Code (contained in Schedule 1 of the Act). The Contract was for an overdraft facility known as 'ANZ Assured' (**overdraft facility**) and was linked to the Customer's account number 266417989. The credit limit of the overdraft facility was \$1,000.

You sent to the Customer a pre-approved offer from ANZ to enter into the Contract on or about 29 January 2015. The Customer applied to enter into the Contract by returning the signed acceptance form by mail. The Contract was entered into on or about 27 February 2015. Prior to entering into the Contract with the Customer, you did not make any (or any adequate) inquiry as required by ss 128, 130(2) and reg 28JA.

Penalty under this notice

3. The penalty for the alleged offence under this notice is \$8,500 for an individual or \$42,500 for a body corporate.

The applicable penalty in this notice is \$42,500.

This penalty can be paid by (**see attached invoice for payment options**).

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the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):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) any liability you have for the alleged contravention of the provision will be discharged;
 - (b) no civil proceedings will be brought against you by the Commonwealth for the alleged contravention;

- (c) you will not be taken to have admitted guilt in respect of the alleged contravention; and
- (d) you will not be taken to have been found guilty of the alleged contravention.

Consequences of failure to pay penalty under this notice

- 5. If you do not pay the penalty specified in this notice within the time for payment mentioned below, civil proceedings may be brought against you for the alleged contravention.
- 6. The maximum penalty that a court may impose for this offence is 2,000 penalty units for an individual and 10,000 penalty units for a body corporate.

Time for payment

- 7. The time for payment is:
 - (a) within 28 days after the day on which the notice is given to you; or
 - (b) if you apply for a further period of time in which to pay the penalty, and the application is granted — within the further period allowed; or
 - (c) if you apply for a further period of time in which to pay the penalty, and the application is refused or is taken to have been refused — within the later of:
 - (i) 7 days after:
 - (A) the day you receive the notice of refusal; or
 - (B) the application is taken to have been refused; and
 - (ii) 28 days after the day on which the infringement notice was given to you; or
 - (d) if you apply for permission to pay the penalty by instalments, and the permission is granted — in accordance with the permission; or
 - (e) if you apply for permission to pay the penalty by instalments, and the permission is refused or is taken to have been refused — within the later of:
 - (i) 7 days after:
 - (A) the day you receive the notice of refusal; or
 - (B) the application is taken to have been refused; and
 - (ii) 28 days after the day on which the infringement notice was given to you; or
 - (f) if you apply for the notice to be withdrawn, and the application is refused or is taken to have been refused — within the later of:
 - (i) 7 days after:
 - (A) the day you receive the notice of refusal; or
 - (B) the application is taken to have been refused; and
 - (ii) 28 days after the day on which the infringement notice was given to you.

Further penalty for continuing offence

- 8. If the alleged contravention of the civil penalty provision continues beyond 27 February 2015 a further penalty may be imposed even if the penalty imposed by this notice is paid.

Applying to have this notice withdrawn

9. Within 28 days after you receive this notice, you may apply to the **Credit Infringement Notice Officer** to have this notice withdrawn.

(the Credit Infringement Notice Officer is the nominated person)

Applying for more time to pay the penalty under this notice

10. Within 28 days after you receive this notice, you may apply to the nominated person for a further period of up to 28 days in which to pay the penalty under this notice.

Applying to pay the penalty under this notice by instalments

11. Within 28 days after you receive this notice, you may apply to the nominated person for permission to pay the penalty under this notice by instalments.

Requirements for applications

12. An application to have this notice withdrawn, or for more time to pay the penalty under this notice, or for permission to pay the penalty under this notice by instalments:
- (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) for an application for permission to pay the penalty under this notice by instalments — include the proposed amount and frequency of instalments; and
 - (e) may be made by forwarding your application to:

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

Signed:



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David John McGuinness

To: Australia New Zealand Banking Group
ACN 005 357 522

Address: Australia New Zealand Banking Group
ANZ Centre
Level 5, 833 Collins Street
DOCKLANDS VIC 3008

Infringement Notice R2016000000
Unique Identification 42694
Code:
Account Number: 66005357522
Issue Date: 05/02/2016

INVOICE

Infringement Notice Penalty **\$42,500.00**

This invoice is issued for payment of the penalty under infringement notice R201600000042694

To stop further action being taken in relation to the alleged offence/ civil penalty contravention described in the infringement notice, ensure payment of the penalty is made within 28 days of receipt of the infringement notice.

For assistance, contact Georgina Thomas on (03) 9280 4107

This notice may not include all monies owed to ASIC.
Not Subject to GST, (Treasurer's Determination Exempt Taxes, Fees and Charges).



Payment Slip

Recipient: Australia New Zealand Banking Group

Account Number: 66005357522

Due this notice: \$42,500.00

PAYMENT OPTIONS



Billpay Code: 8929
Ref: 669005357522335

Australia Post,
Present this payment slip. Pay by cash, cheque or EFTPOS.

Phone
Call 13 18 16 to pay by MasterCard or Visa

Online
Go to postbillpay.com.au to pay by MasterCard or Visa

Electronic Funds Transfer

ASIC's account details are:
BANK: Reserve Bank of Australia
BSB: 093003
BANK ACCOUNT: 317118
ACCOUNT NAME: ASIC Collectors rec.Acc.
REFERENCE: 6690053575223



Bill Code: 17301
Ref: 6690053575223

Use these details for phone or internet banking. Call your financial institution to pay from your cheque, savings or credit card account. For info, www.bpay.com.au

Mail

Mail this payment slip and cheque (do not staple) to ASIC,
Locked Bag 5000, Gippsland Mail Centre VIC 3841

Aus Post Barcode: *814 129 0006690053575223 35