



ASIC

Australian Securities & Investments Commission

Our Reference: 15-20104

3 February 2016

Port Phillip Publishing Pty Ltd  
96-98 Bridport Street  
ALBERT PARK VIC 3206

Level 7, 120 Collins Street,  
Melbourne VIC 3000  
GPO Box 9827, Melbourne VIC 3001  
DX 423 Melbourne

Telephone: +61 3 9280 3200

Facsimile: +61 3 9280 3444

[www.asic.gov.au](http://www.asic.gov.au)

Dear Sir/Madam,

### **Infringement Notice**

I enclose by way of service an Infringement Notice issued in accordance with section 12GXA of the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

The Infringement Notice (the notice) has been issued to you:

- because ASIC has reasonable grounds to believe that you have contravened an infringement notice provision of the ASIC Act; and
- as an alternative to commencing a proceedings (whether criminal or civil) against you for the alleged contravention.

Details of the alleged contravention and the amount payable under the notice are contained in the notice.

Enclosures:

- Infringement notice
- Invoice
- ASIC Information sheet – ASIC Act Infringement Notices: Your Rights, which sets out your rights in respect of the notice.

If you have any questions in relation to the notice please contact Kristy Zaeza on 03 9280 4786 or [Kristy.Zaeza@asic.gov.au](mailto:Kristy.Zaeza@asic.gov.au)

Yours sincerely

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



ASIC

Australian Securities & Investments Commission



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## INFRINGEMENT NOTICE

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

Day of issue: 3 February 2016

Unique identification code: R20160000045807

TO: Port Phillip Publishing Pty Ltd  
ACN 117 765 009  
96-98 Bridport Street  
**ALBERT PARK VIC 3206**

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 Port Phillip Publishing Pty Ltd (**Port Phillip**) has contravened an infringement notice provision as follows:

Between 31 July 2015 and 17 September 2015, Port Phillip contravened section 12DB(1)(h) 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 or misleading representations in a 50 Minute PowerPoint Video titled "The Genesis 47 Plan" (Video) accessible through the following websites:-

- <http://pro.portphillippublishing.com.au/r2sisgenesis/WSISR342/?h=true>; and
- [www.handsoffmysuper.com.au](http://www.handsoffmysuper.com.au),

concerning the need for any services.

A Webcapture in the same form or substantially the same form as the Video is contained at **Annexure A**.

### Particulars

- (a) The Video contains representations that in the near future, the Australian Government intends to nationalise and take ownership of superannuation, leaving the general working public unable to access their retirement savings (**Superannuation Representations**). The Superannuation Representations are false and misleading because they misconstrue legislation enacted to ensure unclaimed superannuation is centralised so that individuals can track down their superannuation entitlements. Examples of these representations excerpted from the video are as follows:-

- (i) *"I now have what I believe to be conclusive proof that the government is coming for this money. My research team's put together this report to share this proof with you. For six years the State has been circling around your retirement savings.*

*Nibbling a little bit here in higher levies.  
Stealing a little bit there in 'unclaimed super'.  
It does this with impunity.  
Because the government doesn't really believe it's your money at all.  
To the politicians in Canberra, superannuation is a 'national asset'.  
It's for the country to decide how to spend it, rather than you.  
Now the State wants that nationalisation to be written in law.  
By that I mean...  
The government want ALL OF IT.  
And it's making plans to TAKE ALL OF IT."*

(ii) *"Your super is under threat from complete government confiscation.*

*In fact — with the evidence that follows in mind — I'd even go so far as to say this:*

*There is an extremely high chance that you will never see even one cent of the money you've contributed to super. No matter what age you are.*

*To repeat: there is a good chance that in your lifetime your superannuation will be stolen in its entirety"*

- (b) The Superannuation Representations are also based on the author's opinion and not "evidence" as suggested in the Video.
- (c) The Video contains further representations that subscription to Port Phillip's *Tactical Wealth* publication would provide consumers with a strategy to "protect" their super from being stolen by the Government (**Subscription Representation**). An example excerpted from the video as follows:-

*If you've got any interest in keeping the government away from your and your children's retirement savings, then I ask you to do two things today.*

*First, take a 30-day trial of my newsletter and download **The Exodus Initiative** now.*

*It's really very simple:*

*The best way to protect your assets from confiscation is to develop a sound financial survival strategy today.*

*If you have one, you will have peace of mind in the meantime...and be WAY better off when things start to turn south than those who trusted in the government.*

***The Exodus Initiative** is such a strategy.*

*You can download it by clicking here now."*

- (d) The Subscription Representation contained in the Video is false and misleading because it purports to contain a remedy to the nationalisation of superannuation, which is a false and misleading statement in itself, and grossly exaggerates the need for the subscription to the general public.

#### **Penalty under this notice**

3. (a) The penalty payable under this notice in relation to the alleged contravention is \$10,800.  
(b) This penalty is payable to ASIC on behalf of the Commonwealth.  
(c) 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 \$1.8 million.

#### **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:

**Kristy Zaeza**

Australian Securities and Investments Commission

GPO Box 9827

Melbourne VIC 3001

Or by facsimile: 03 9280 3444

**or by email:** [ACLInfringementNotices@asic.gov.au](mailto:ACLInfringementNotices@asic.gov.au)



*Signature of delegate issuing the notice*

Peter Kell

as a delegate of the Australian Securities and Investments Commission

## ANNEXURE A

### **Webcapture of**

<http://pro.portphillippublishing.com.au/r2sisgenesis/WSISR342/?h=true>;

[www.handsoffmysuper.com.au](http://www.handsoffmysuper.com.au)