



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

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DX 423 Melbourne

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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

Yours sincerely

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



ASIC

Australian Securities & Investments Commission



M01531571

INFRINGEMENT NOTICE

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

Day of issue: 3 February 2016

Unique identification code: R20160000045806

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.
3. On 24 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 the same form or substantially the same form as **Annexure A** – a webcapture of <http://pro.portphillippublishing.com.au/r2sisgenesis/ESISR853/> (the **Port Phillip Website**)) concerning the need for any services.

Particulars

- (a) The Port Phillip Website 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 website are as follows:-

"For years, they've denied that superannuation is a tax. That was because it was in their interest for them to do so. Over the next few months, you will start to see that change. They will start to call it a tax. And that will give the permission they need in order to confiscate 100% of everyone's super..."

"Once you retire, you won't be able to access your money.

The government will force you into buying an annuity, which will pay you an income over your retirement.

I know some folks will say that's a good thing. But it's not. This is the final step that the government will take before full-blown nationalization.

I knew when we published we would be stirring a hornet's nest.

But I absolutely had no idea how quickly and brazenly the government would start pushing its super theft agenda once the video was published."

"I repeat:

I am absolutely convinced that, in some shape or form, the government is going to requisition your retirement savings.

And when that occurs, an entire generation of sheep who bought into the idea of a government-mandated privately run retirement system will be RORTED.

Your money won't be there when you need it.

That is not an exaggeration.

I have gone on record many times saying I genuinely believe that no one under the age of 50 in Australia will ever see their super fund.

If you're aged 40-50 (like me), you probably have no better than a 50% chance of ever seeing your super.

That's precisely why I've personally taken radical action to 'government-proof' my own SMSF.

And why I'm also carrying out the other actions I outline in The Exodus Initiative.

*As I say, for as long as we can manage it financially, I've **HALVED the price of my newsletter so you can get hold of this report easily.** I literally would like to see everyone in Australia who is saving for retirement to do so.*

I don't care about making any money from it. I'm that passionate about the topic.

And I'm extremely anxious at the speed at which this is all taking place.

Just Google superannuation.

You'll see what I mean."

The time to take action is now."

- (b) The Superannuation Representations are also based on the author's opinion and not "evidence" as suggested on the Port Phillip Website.
- (c) The Port Phillip Website 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 is as follows:-

If you've got any interest in keeping the government away from your [sic] 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.*

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 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 on the big link below.

Second, spread the word to everyone you care about.

Now, they may not believe you.

Even if you show them all the evidence in this video.

But at least you'll have done your bit.

You, like me, can sleep easy knowing you didn't stay silent when you saw the

writing on the wall.

*To start your 30-day trial, download **The Exodus Initiative**, and lock in your 50%-discounted subscription of **Tactical Wealth**, click on the link below.*

Thanks for reading.

Kris Sayce

Tactical Wealth."

- (d) When readers attempt to exit the page, a pop-up message appears which contains the following text:-

"Wait! Before you click away...and let the government have its way with your retirement savings!

The government is coming for you [sic] super. This is no joke. It's going to happen.

All these [sic] evidence you need is in this report.

It's crucial you prepare for this attack on your wealth.

*The new report I've compiled, called **The Exodus Initiative**, shows you how to do exactly that. This single step could help you protect your savings and have a profound impact on the rest of your life."*

- (e) The Subscription Representation contained on the website 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

4. (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

5. 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

6. 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.
7. The maximum pecuniary penalty that a court may order you to pay for the alleged contravention is \$1.8 million.

Time for payment

8. 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

9. 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.
10. 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

11. Within 28 days after the day on which this notice is issued, you may apply to ASIC in writing to have this notice withdrawn.
12. 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

13. 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.
14. A withdrawal notice must be given to you within the time for payment of this infringement notice to be effective.
15. 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

16. 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.

17. 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



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/ESISR853/>