



ASIC

Australian Securities & Investments Commission

INFRINGEMENT NOTICE

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

Day of issue: 21/07/2016

Unique identification code: R20160000308029

TO: LT Management Pty Ltd ACN 137 237 515
Level 3, Suite 2, 2-10 Loftus St,
Sydney NSW 2000

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 LT Management Pty Ltd (**LT Management**) has contravened section 12DB(1)(i) of the ASIC Act which is an infringement notice provision because:
 - (a) Between 1 August 2015 and 17 March 2016 (**the Relevant Period**) LT Management made a false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy and the false or misleading representation was made in trade or commerce, in connection with the promotion by any means of the supply or use of financial services.
 - (b) In particular, LT Management, on the Silverhall website located at URL www.silverhall.com.au (**the Silverhall Website**)¹, made a representation about the financial services that could be provided by R S Capital Partners Pty Ltd trading as My SMSF Property, in relation to self managed superannuation funds (SMSFs), including :
 - i. "FREE SMSF SET UP";
 - ii. "Get a FREE SMSF set up";
 - iii. "Apply for a FREE SMSF SET UP";
 - iv. "Find the best properties and get your SMSF set up for free";
 - v. "Get a FREE SMSF set up, including your Property Trust";
 - vi. "Free SMSF set up to buy property";
 - vii. "FREE SMSF set up valued at \$3990*"; and
 - viii. "Free SMSF set up for property"(collectively, the **Free SMSF Representation**).
 - (c) The Silverhall Website did not display, or did not display prominently, the existence or the effect of the conditions that applied to the Free SMSF Representation.

¹ Operated by LT Management

- (d) The Free SMSF Representation appeared on the homepage, among other pages, of the Silverhall Website. The homepage did not specify at all that conditions applied to the Free SMSF Representation.
- (e) The Silverhall Website, on other pages, noted that the following conditions applied to the Free SMSF Representation:
 - i. consumers must buy a property directly through Silverhall; and
 - ii. consumers must use the accounting services of My SMSF Property for 24 months.
- (f) If the consumer followed a link on the Silverhall Website to the My SMSF Property website located at URL www.mysmsfproperty.com.au² (**the My SMSF Property Website**), the following further conditions on the Free SMSF Representation and costs were noted:
 - i. consumers must use the accounting services of My SMSF Property for 24 months at a cost of \$2,200;
 - ii. consumers must have a minimum \$100,000 superannuation balance;
 - iii. consumers must use a CBA bank account;
 - iv. consumers must use the lending service of My SMSF Property, called "My SMSF Lending";
 - v. consumers must establish an individual trustee SMSF because a corporate trustee SMSF attracted a fee of \$799; and
 - vi. the cost of a property trust was not specified and so was not "included" in the "free" set up of a SMSF.
- (g) During the Relevant Period, LT Management also prepared and made available for download an e-book titled, "Buying Property Using your SMSF" (**E-Book**). The E-Book also contained the false or misleading Free SMSF Representation and did not display or display prominently the existence or effect of conditions that applied to the Free SMSF Representation.

Penalty under this notice

3. The penalty payable under this notice in relation to the alleged contravention is \$10,800.00

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.

² Operated by R S Capital Partners Pty Ltd trading as My SMSF Property

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 \$1,800,000.

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

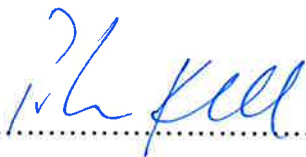
12. ASIC may, by written notice given to you, withdraw this infringement notice if ASIC is satisfied that it is appropriate to do so, whether or not you have applied to have this notice withdrawn.
13. A withdrawal notice must be given to you within the time for payment of this infringement notice to 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:

Alexandra Smith
Australian Securities and Investments Commission
GPO Box 9827
Sydney NSW 2000
or by email: ACLInfringementNotices@asic.gov.au



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Peter Kell

as a delegate of the Australian Securities and Investments Commission