

Australian Securities and Investments Commission Act 2001
Section 93AA

The commitments in this undertaking are offered to the Australian Securities and Investments Commission (ASIC) by:

James Phillip Allen
Jamberoo, New South Wales

Definitions

In this enforceable undertaking, the following definitions are used:

Acceptance Date means the date of acceptance by ASIC of this enforceable undertaking.

ACN 147 602 444 means ACN 147 602 444 Pty Ltd (in liquidation), formerly known as Laura Dean Holdings Pty Ltd and Future Advisers AFSL Pty Ltd, which held the AFSL numbered 431865.

AFSL means Australian financial services licence, as defined by section 761A of the Corporations Act.

ASIC Act means the *Australian Securities and Investments Commission Act 2001* (Cth).

authorised representative has the meaning given by section 761A of the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

FASEA means the Financial Adviser Standards and Ethics Authority (or the equivalent standards body that is appointed in accordance with section 921X of the Corporations Act).

financial product advice has the meaning given by section 761A of the Corporations Act.

financial product has the meaning given by section 761A of the Corporations Act.

financial service has the meaning given by section 761A of the Corporations Act.

financial services business has the meaning given by section 761A of the Corporations Act.

financial services licensee has the meaning given by section 761A of the Corporations Act.

Future Accountants means Future Accountants and Advisers Pty Ltd ACN 169 649 101.

Luiten Shores means Luiten Shores Financial Planning Pty Ltd ACN 141 687 836, AFSL number 358840.

MyPlanner means MyPlanner Australia Pty Ltd ACN 140 520 225, AFSL number 345905.

relevant provider has the meaning given by section 910A of the Corporations Act.

ASIC'S ROLE

1. Under section 1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

BACKGROUND

2. From 22 December 2011 to 18 March 2013, James Phillip Allen was an authorised representative of Luiten Shores.
3. From 18 March 2013 to 30 November 2015, Mr Allen was an authorised representative of ACN 147 602 444 (in liquidation). Future Accountants, a company for which Mr Allen is the sole director, was also an authorised representative of ACN 147 602 444 from 1 September 2014 to 30 November 2015.
4. From 30 November 2015 to 13 June 2018, Mr Allen and Future Accountants were authorised representatives of MyPlanner.
5. Under its AFSL, MyPlanner is authorised to operate a financial services business that provides financial product advice and deals in a range of financial products.

ASIC'S CONCERNS

6. ASIC carried out a surveillance into financial product advice provided by Mr Allen to determine whether, in providing that advice, Mr Allen complied with the provisions of Chapter 7 of the Corporations Act.
7. As part of the surveillance, ASIC reviewed a sample of client files produced by Mr Allen and MyPlanner.
8. Through its surveillance, ASIC identified a number of concerns in relation to the financial product advice Mr Allen provided to his clients. In ASIC's view, Mr Allen, in providing financial product advice to a number of clients, failed to:
 - (a) determine or make reasonable inquiries into the relevant personal circumstances of the client prior to giving the client the advice;
 - (b) consider and investigate the subject matter of the advice;
 - (c) give appropriate advice to the clients;

- (d) comply with the best interest obligations under sections 961B of the Corporations Act and the related obligations under sections 961G (appropriate advice requirement) and 961J (conflicts priority rule) of the Corporations Act; and
- (e) comply with the reasonable basis requirements under section 945A of the Corporations Act for financial product advice provided to clients prior to the repeal of the section on 1 July 2013.

ACKNOWLEDGEMENT OF CONCERNS

9. Mr Allen acknowledges that ASIC's concerns are reasonably held.

UNDERTAKINGS

10. Under section 93AA of the ASIC Act, Mr Allen has offered the undertakings as set out in paragraphs 11 to 12. ASIC has agreed to accept these undertakings as an alternative to pursuing administrative action against Mr Allen under the Corporations Act.
11. Mr Allen undertakes that, for a period of 3 years starting from the Acceptance Date, he will not:
- (a) provide financial services in any capacity; or
 - (b) hold the position of a director or any managerial position in a financial services business.

Returning to the Industry

12. If Mr Allen decides to resume providing financial services after the 3-year period referred to in paragraph 11, Mr Allen undertakes to:
- (a) at least 28 days prior to becoming a relevant provider:
 - (i) notify ASIC of his intention to re-enter the financial services industry; and
 - (ii) provide ASIC with the details of the financial services licensee he will be authorised or employed by (including the name, licence number and the authorisations that the financial services licensee will provide to Mr Allen);
 - (b) prior to becoming a relevant provider:
 - (i) complete a bachelor or higher degree, or equivalent qualification, approved by FASEA; and

- (ii) pass an exam approved by FASEA;
- (c) within 14 days of satisfying all of the requirements in paragraph 12(b), provide ASIC with written confirmation from the relevant education provider that he has completed the respective requirements; and
- (d) prior to resuming the provision of unsupervised financial product advice, complete at least 1 year of work and training in accordance with subsections 921B(4) and 921F of the Corporations Act.

Costs

13. Mr Allen undertakes:

- (a) to pay all costs of compliance with this enforceable undertaking; and
- (b) not to seek reimbursement of, or contribution to, any such cost from any third party.

Requests for documents by ASIC

14. Mr Allen further undertakes to provide all documents and information requested by ASIC from time to time, for the purposes of assessing Mr Allen's compliance with the terms of this enforceable undertaking, within 14 days after receiving a written request from ASIC (or any such longer period as may be agreed to in writing by ASIC).

ACKNOWLEDGMENTS

15. Mr Allen acknowledges that ASIC:

- (a) may issue a media release on execution of this enforceable undertaking referring to its terms and to ASIC's concerns that led to its execution;
- (b) may from time to time publicly refer to this enforceable undertaking; and
- (c) will make this enforceable undertaking available for public inspection.

16. Further, Mr Allen acknowledges that:

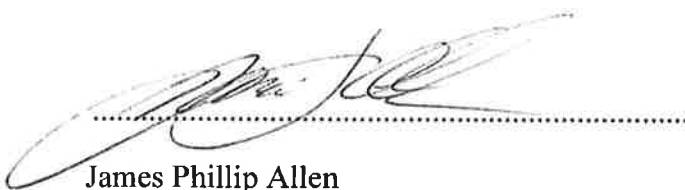
- (a) this enforceable undertaking in no way derogates from the rights and remedies available to ASIC or any other person or entity arising from:
 - (i) conduct that is not the subject of ASIC concerns; or
 - (ii) conduct that occurred prior to the Acceptance Date of which ASIC is not aware as at the Acceptance Date; or

- (iii) future conduct;
- (b) this enforceable undertaking has no operative force until accepted by ASIC; and
- (c) the date of commencement of this enforceable undertaking is the Acceptance Date.

PROVISION OF DOCUMENTS

17. The address for providing ASIC with any notice or document which this enforceable undertaking requires to be provided to ASIC is:

Australian Securities and Investments Commission
Level 20, 240 Queen Street
Brisbane QLD 4001
Attention: Senior Manager – Financial Advisers



James Phillip Allen

Date: 10/08/2018

Accepted by the Australian Securities and Investments Commission under section 93AA of the ASIC Act by its duly authorised delegate:



Joanna Bird

Delegate of Australian Securities and Investments Commission

Date accepted by ASIC: 28/08/18

