

ENFORCEABLE UNDERTAKING

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:

Lasarith Pty Ltd
ACN 134 628 489
Australian Financial Services Licence No. 433938
West Perth, Western Australia
(Lasarith)

and

Adam Campbell Smith
Marmion, Western Australia
(Mr Smith)

DEFINITIONS

In addition to terms defined elsewhere in this court enforceable undertaking, the following definitions are used:

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

AFS licence means Australian financial services licence

Authorised Representative has the meaning given by section 916A of the *Corporations Act 2001* (Cth)

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

ASIC means the Australian Securities and Investments Commission

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

Corporations Regulations means the *Corporations Regulations 2001* (Cth)

Relevant Period means the 2016/2017 and 2017/2018 financial years

ASIC'S ROLE

1. Under s1 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. Since 7 March 2013, Lasarith T/A '*Succession Matters*' has held an AFS licence (No:433938) authorising it to carry on a financial services business to provide financial product advice and deal in financial products.
3. Mr Smith is and was at all relevant times:
 - 3.1. the sole director, secretary and shareholder of Lasarith;
 - 3.2. the sole responsible manager for the AFS licence held by Lasarith; and
 - 3.3. a financial adviser (Financial Adviser No: 001000190) who operates under Lasarith's AFS licence.

DETAILS OF CONDUCT

4. As a result of ASIC's investigation into Lasarith and Mr Smith pursuant to s13 of the ASIC Act, ASIC is concerned that:
 - 4.1. during the Relevant Period, Lasarith and Authorised Representatives of Lasarith failed on at least 24 occasions to provide statements of advice to a client in accordance with s946A of the Corporations Act;
 - 4.2. during the Relevant Period, Lasarith and Authorised Representatives of Lasarith failed on at least 30 occasions to provide a statement of advice to its clients within the period specified in s946C of the Corporations Act;
 - 4.3. the failure to provide statements of advice in accordance with s946A and s946C of the Corporations Act was contributed to by:
 - 4.3.1. inadequate management and supervision by Lasarith of its Authorised Representatives and staff;
 - 4.3.2. inadequate policies and procedures regarding the submission of insurance applications and the preparation of statements of advice;
 - 4.3.3. inadequate resourcesand
 - 4.4. despite Mr Smith knowing about the failure to provide statements of advice since at least 7 March 2017, he failed to:

- 4.4.1. take sufficient action to prevent Lasarith from breaching s946A and s946C of the Corporations Act until September 2017; and
- 4.4.2. cause Lasarith to notify ASIC of the failure of Lasarith and its Authorised Representatives to provide statements of advice to their clients until 13 September 2021.

ASIC'S CONCERNS

- 5. As a result of the matters referred to in paragraph 4 above, ASIC is concerned that:
 - 5.1. during the Relevant Period Lasarith breached its general obligations as a financial services licensee under s912A of the Corporations Act to:
 - 5.1.1. ensure that it complies with the financial services laws pursuant to s912A(1)(c) of the Corporations Act;
 - 5.1.2. ensure that it takes reasonable steps to ensure that its representatives comply with the financial services laws pursuant to s912A(1)(ca) of the Corporations Act;
 - 5.1.3. ensure that it has available adequate resources to provide the financial services covered by the licence and to carry out supervision pursuant to s912A(1)(d) of the Corporations Act;
 - 5.1.4. ensure that it maintains the competence to provide financial services under its AFS licence pursuant to s912A(1)(e) of the Corporations Act; and
 - 5.1.5. ensure that its representatives are adequately trained and are competent to provide those financial services pursuant to s912A(1)(f) of the Corporations Act;
 - 5.2. during the Relevant Period Mr Smith did not fulfill all of his obligations as the responsible manager of Lasarith.

ADMISSIONS OF WRONGDOING BY LASARITH AND MR SMITH

- 6. Lasarith admits the conduct identified in paragraphs 4.1, 4.2 and 4.3 above and admits each and every contravention identified in paragraph 5.1.

7. Mr Smith admits the conduct identified in paragraph 4.4 and admits paragraph 5.2.

UNDERTAKINGS

8. Under s93AA of the ASIC Act, Lasarith and Mr Smith have offered, and ASIC has agreed to accept as an alternative to ASIC taking administrative action, the undertakings in paragraphs 9 to 14 below.

Undertakings given by Lasarith

9. Lasarith undertakes that:
- 9.1. by a date not more than 60 business days after the Acceptance Date or within such longer period that may be agreed by ASIC and Lasarith, it will:
 - 9.1.1. cease to provide Financial Services under its AFS licence, other than in respect of any activity that may be agreed to in writing between ASIC and Lasarith; and
 - 9.1.2. lodge an application with ASIC in which Lasarith applies to ASIC to cancel Lasarith's Australian Financial Services licence;
 - 9.2. it will remain a member of the Australian Financial Complaints Authority scheme for a period of 12 months from the date that Lasarith's AFS Licence is cancelled;
 - 9.3. it will maintain an internal dispute resolution scheme for no less than two years from the date on which Lasarith lodges the application with ASIC to cancel its AFS licence; and
 - 9.4. it will comply with conditions 21 and 22 of Australian financial services licence number 433938 regarding the '*Retention of Financial Services Guides, Statements of Advice and Material Relating to Personal Advice*'.

Costs of Compliance

10. Lasarith undertakes that it will pay all costs associated with its compliance with this court enforceable undertaking.

Provision of documents

11. Lasarith undertakes that it will provide all documents and information requested by ASIC from time to time for the purpose of assessing Lasarith's compliance with the terms of this court enforceable undertaking within 20 business days after receiving a request from ASIC.

Undertakings given by Adam Smith

12. Mr Smith undertakes that for a period of 18 months from the Acceptance Date, he will not act as the responsible manager of Lasarith or any other AFS Licensee.
13. Mr Smith undertakes that he will, within 12 months of the Acceptance Date, complete the Financial Education '*Managing Ethical dilemmas in Financial Services*' course.
14. If Mr Smith wishes to become a responsible manager of an AFS Licensee at the end of the 18 month period referred to in paragraph 12 above, then Mr Smith undertakes to, at least 28 business days prior to lodging the application:
 - 14.1. notify ASIC of his intention; and
 - 14.2. provide ASIC with documentary evidence that he has completed the:
 - 14.2.1. Financial Education '*Responsible Manager Fundamentals*' course; and
 - 14.2.2. Financial Education '*Managing Ethical dilemmas in Financial Services*' course.

ACKNOWLEDGEMENTS

15. Lasarith and Mr Smith acknowledge that ASIC:
 - 15.1. may issue a media release on execution of this court enforceable undertaking referring to its terms and to the concerns of ASIC which led to its execution, however the terms of any media release must be consistent with this court enforceable undertaking;
 - 15.2. may from time to time publicly refer to this court enforceable undertaking;
 - 15.3. will from time to time publicly report about compliance with this court enforceable undertaking; and

15.4. will make this court enforceable undertaking available for public inspection.

16. Lasarith and Mr Smith acknowledge that:

16.1. ASIC's acceptance of this court enforceable undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil order in relation to any contravention not the subject of ASIC's concerns in this court enforceable undertaking or arising from future conduct;

16.2. this court enforceable undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this court enforceable undertaking or arising from future conduct;

16.3. this court enforceable undertaking has no operative force until accepted by ASIC; and

16.4. the date of the court enforceable undertaking is the date on which it is accepted by ASIC.

17. ASIC acknowledges that:

17.1. ASIC has agreed not to impose any additional requirements on Lasarith in the process of cancelling its AFS licence;

17.2. Lasarith is voluntarily requesting its AFS licence be cancelled; and

17.3. Lasarith and Mr Smith intend to provide financial services as authorised representatives under another AFS licence.

PROVISION OF DOCUMENTS

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

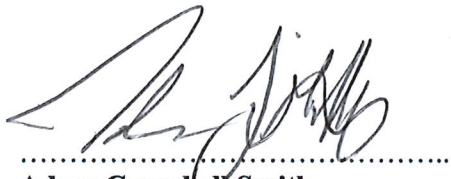
Australian Securities and Investments Commission
GPO Box 9827
Brisbane QLD 4001
Attention: Senior Manager - Financial Advisers Team

EXECUTED by LASARITH PTY LTD
(ACN 134 628 489) in accordance with s127 of
the *Corporations Act 2001* (Cth)



.....
Adam Campbell Smith
Sole Director and Company Secretary

Date 01/11/2022



.....
Adam Campbell Smith
(In his personal capacity)

Date 01/11/2022

**Accepted by the Australian Securities and Investments Commission under s93AA
of the ASIC Act by its duly authorised delegate:**



.....
Wendy Endebrock-Brown
Delegate of Australian Securities and Investments Commission

Date accepted by ASIC 10/11/22