

Enforceable Undertaking

Pursuant to section 46 of the Financial
Markets Authority Act 2011

The enforceable undertaking is offered to the Financial Markets
Authority for its acceptance under section 46 of the Financial
Markets Authority Act 2011 by:

Jonathan Simon Antony Branton-Casey

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www.fma.govt.nz

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FMA document reference code xxxxxx

Overview

Date: 27th day of February 2019

Parties

JONATHAN SIMON ANTONY BRANTON-CASEY, of Christchurch, New Zealand

and

FINANCIAL MARKETS AUTHORITY, an independent Crown entity established under the Financial Markets Authority Act 2011

Introduction

This enforceable undertaking is given by Jonathan Simon Antony Branton-Casey (**Mr Branton-Casey**) and has been accepted by the Financial Markets Authority (**FMA**) in accordance with section 46 of the Financial Markets Authority Act 2011 (**FMA Act**).

Background

FMA's Role

- A. Pursuant to section 8 of the FMA Act, the FMA's main objective is to promote and facilitate the development of fair, efficient and transparent financial markets.
- B. Pursuant to section 9 of the FMA Act, the FMA's functions include:
 - (i) Promoting the confident and informed participation of businesses, investors and consumers in the financial markets by issuing warnings about financial markets participants or others engaged in conduct relating to those markets; and
 - (ii) Investigating and enforcing compliance with financial markets legislation, including the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (**FSP Act**), the Financial Advisers Act 2008 (**FA Act**), and certain provisions of the Crimes Act 1961 (**Crimes Act**).

Mr Branton-Casey's Conduct

- C. On 27 March 2011, Mr Branton-Casey (trading through The Broker Limited and/or Sphere Group Limited) registered on the Financial Service Providers Register (or **FSPR**) to provide financial adviser and broking services as a Registered Financial Adviser (**RFA**).

- D. Following an investigation into the conduct of an un-registered individual, Garry James Patterson (**Mr Patterson**), the FMA determined that Mr Patterson had committed offence(s) under the FSP Act, in relation to various insurance policies between 1 July 2013 and 28 May 2015, and that Mr Branton-Casey had facilitated Mr Patterson's offending. As a RFA, Mr Branton-Casey's professional conduct raised concerns for the FMA.
- E. Mr Branton-Casey co-operated with the FMA, including by:
 - (i) Voluntarily de-registering as a RFA from the FSPR on 9 March 2018; and
 - (ii) Giving evidence at the prosecution brought by the FMA against Mr Patterson on 12-13 March 2018.
- F. As part of engaging and co-operating with the FMA, Mr Branton-Casey has offered to be subject to formal restrictions on his participation in New Zealand's financial markets.

FMA's Concerns

- G. In facilitating Mr Patterson's offending under the FSP Act, the FMA considers that Mr Branton-Casey's professional conduct fell short of the FMA's expectations of a RFA under the FA Act and/or under the Crimes Act.
- H. More specifically, Mr Branton-Casey was the RFA who signed and submitted various insurance application forms to insurance providers that had been completed by Mr Patterson for clients, in circumstances where Mr Branton-Casey had not met or advised the relevant clients and knew that Mr Patterson was not registered as a financial adviser. In doing so, Mr Branton-Casey failed to exercise the care, diligence and skill expected of a reasonable RFA in the circumstances.
- I. In addition to co-operating with the FMA, Mr Branton-Casey has deregistered as a RFA and has offered an enforceable undertaking to provide the FMA with sufficient comfort that he will remain out of New Zealand's financial markets for a minimum specified period.

Enforceable Undertaking

Undertakings

Mr Branton-Casey has offered the undertakings (as set out **below**) and the FMA has agreed to accept these undertakings in accordance with section 46 of the FMA Act.

1. Accordingly, Mr Branton-Casey undertakes that:

1.1 He has voluntarily de-registered as a RFA from the FSPR; and

1.2 He will not –

(i) (re)apply to be registered or authorised as a financial adviser under the FSP Act and/or under the FA Act; or

(ii) become licensed to provide a financial advice service or give regulated financial advice on behalf of a financial advice provider under the Financial Markets Conduct Act 2013 (**FMC Act**) (once this Act is amended by the Financial Services Legislation Amendment Bill); –

– for a period of four years from the date this document is executed by both parties.

2. The FMA reserves the right to modify clause 1.2(ii) of the undertakings (as set out **above**) once the Financial Services Legislation Amendment Bill is finalised and comes into force, to the extent that it is necessary to make technical amendments in order to maintain the intended meaning of this undertaking.

Acknowledgements

Acknowledgments

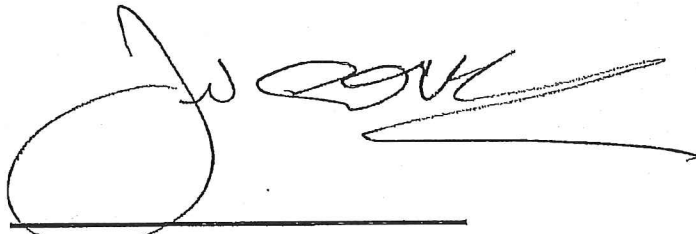
3. Mr Branton-Casey acknowledges that:

- 3.1 The undertakings voluntarily given by him and accepted by the FMA in accordance with section 46 of the FMA Act may be legally enforced by the FMA in accordance with section 47 of the FMA Act from the date this document is executed by both parties;
- 3.2 Following the execution of this document by both parties, it will be published by the FMA on its website, together with a media statement;
- 3.3 In accepting the undertakings, the FMA is not prevented from exercising its rights under financial markets legislation and/or under the FMA Act in relation to any contravention of the undertakings or arising from any future conduct;
- 3.4 Nothing in this document suggests that any application to (re)apply under the FSP Act and/or under the FA Act, or to become licensed or give regulated financial advice under the FMC Act (once amended by the Financial Services Legislation Amendment Bill), will be granted by the FMA after the period of four years from the date this document is executed by both parties; and
- 3.5 Any application under the FSP Act and/or under the FA Act, or under the FMC Act (once amended by the Financial Services Legislation Amendment Bill), will be treated as any other application would be in the ordinary course in light of the circumstances and relevant factors at that time.

Execution

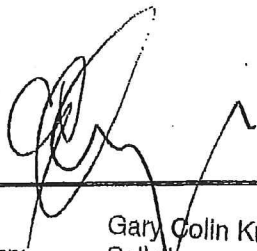
Execution

Signed by JONATHAN SIMON ANTONY BRANTON-CASEY:



JONATHAN SIMON ANTONY BRANTON-CASEY

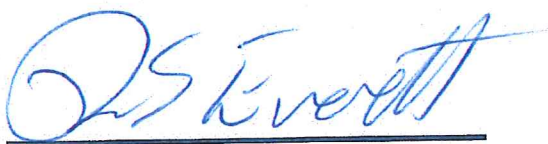
In the presence of:



Name: Gary Colin Knight
Occupation: Solicitor
Address: Christchurch

Execution (cont.)

The FMA accepts this enforceable undertaking pursuant to section 46 of the FMA Act by its authorised delegate:



ROB EVERETT

Chief Executive Officer at the FMA

In the presence of:



Name: Diane Petherick

Occupation: PA

Address: Wellington