

## Infringement Notice

[Section 514, Financial Markets Conduct Act 2013](#)

**Infringement Notice No:** **F000001**

**Date of Notice:** 26 September 2018

### Enforcement Authority

This infringement notice is issued by the Financial Markets Authority.

Address for correspondence and queries:

Financial Markets Authority - Infringements

Level 5, Ernst & Young Building, 2 Takutai Square, Britomart PO Box 106 672, Auckland 1143

Email address: [InfringementAdmin@fma.govt.nz](mailto:InfringementAdmin@fma.govt.nz)

PHONE **0800 434 567**

### Infringement Notice Served on

**Full Name:** Pacific Eagle Capital

**Full Address:** Level 4, 17 Albert Street, Auckland 1010, New Zealand

**Date of Birth:** N/A

**Occupation:** N/A

**Gender:** N/A

**Telephone Number:** N/A

### Alleged Infringement Offence Details

The offence is one against section 461H of the [Financial Markets Conduct Act 2013](#).

**Date:** From 31 July 2018 to 25 September 2018

**Time:** 5:00pm

**Place:** Auckland

**Nature of alleged infringement:** Under section 461H of the Financial Markets Conduct Act 2013, Pacific Eagle Capital is required to deliver financial statements to the Registrar for lodgements within 4 months of its balance date (31 March 2018). Pacific Eagle Capital has not delivered financial statements to the Registrar within this timeframe, and still has not at the date of this Infringement Notice.

**The infringement fee payable is:** **\$7,500.00**

### Service details

Infringement notice served by post on 26 September 2018.

### Payment of infringement fee

**The infringement fee is payable within 28 days after 26 September 2018.**

**The infringement fee may be paid to the Financial Markets Authority at:**

Accounts Receivable - Level 5, Ernst & Young Building, 2 Takutai Square, Britomart.  
PO Box 106 672, Auckland 1143

**The infringement fee may be paid by the following methods:**

- Internet banking
- Telegraphic transfer
- In person at a Westpac branch
- By post

Please refer to the back page of this notice for more details about how to use the above payment methods.

**Important:** Please read the summary below—if you do not understand it, you should consult a lawyer immediately.

## Summary of rights

1. This notice sets out an alleged infringement offence.

### **Payments**

2. If you pay the infringement fee for an alleged infringement offence within 28 days after you have been served with this notice, no further enforcement action will be taken for that offence. Payments should be made to the Financial Markets Authority at the address for payment specified in this notice.

If, under [section 21\(3A\)](#) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with the Financial Markets Authority in respect of an infringement fee payable by you, paragraphs 4(b), 4(c), 5, 6, and 7 below do not apply, and you are not entitled either to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

### **Defence**

3. You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to the Financial Markets Authority, at the address for payment specified in this notice, before or within 28 days after a reminder notice in respect of the alleged offence is served on you. Late payment or payment made to any other address will not constitute a defence.

### **Further action**

4. You should write to the Financial Markets Authority at the address for correspondence shown on the front page of this notice if you wish to—
  - (a) raise any matter relating to the circumstances of an alleged offence for consideration by the Financial Markets Authority; or
  - (b) deny liability for the alleged offence and request a court hearing; or
  - (c) admit liability for the alleged offence, but wish to have a court consider written submissions as to penalty or otherwise.

The letter should be signed.

5. **You have a right to request a hearing.** If you deny liability for the alleged offence and request a hearing, the Financial Markets Authority will serve you with a notice of hearing that sets out the place and time at which the matter will be heard by the court (unless the Financial Markets Authority decides not to start court proceedings).

**Note:** If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

6. A request for a hearing must—
  - (a) be in writing and signed by you; and
  - (b) be delivered to the Financial Markets Authority at the address for correspondence shown on the front page of this notice; and
  - (c) be delivered within 28 days after you have been served with a reminder notice.
7. If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you should, in your letter to the Financial Markets Authority,—
  - (a) request a hearing; and
  - (b) admit liability for the offence; and
  - (c) set out the written submissions you wish to be considered by the court.

The Financial Markets Authority will then file your letter with the court (unless the Financial Markets Authority decides not to start court proceedings). There is no provision for an oral hearing before the court if you follow this course of action.

**Note:** Costs will be imposed in addition to any penalty.

8. If you do not pay the infringement fee and do not request a hearing in respect of an alleged offence within 28 days after you have been served with this notice, you will (unless the Financial Markets Authority decides otherwise) be served with a reminder notice.
9. If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with the reminder notice, you will become liable to pay costs in addition to a fine (if the Financial Markets Authority decides to start court proceedings against you). The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.
10. When writing or making payment of an infringement fee, please indicate—
  - (a) the date of the alleged infringement offence; and
  - (b) the infringement notice number; and
  - (c) your full name and address for replies.

**Note:** All queries and correspondence regarding the infringement offence must be directed to the Financial Markets Authority at the address shown on the front page of this notice.

Further details of your rights and obligations are set out in [section 21](#) of the Summary Proceedings Act 1957.

## How to pay your infringement fee:

### Internet Banking

This is an outline regarding paying your infringement fee by internet banking. As the terminology and processes can differ from bank to bank please contact your bank if you need help.

- Log into your personal internet banking website.
- Select the options for setting up a new bill payment that gets you to the point of “adding a new payee”. There should be a drop down box which shows a list of payees already available with your bank. Where it is available, select “**Financial Markets Authority – Infringements**” from the list of payees and proceed with making payment.
- Another option is for you to create a one-off bill payment to the Financial Markets Authority by simply using the **bank Account Number: 03-0584-0296289-00** and entering the usual payment details for a one-off payment.
- You must enter the correct **infringement notice number** into the payment reference field that the Financial Market Authority, the payee will see on their bank statement. This will ensure your payment is identified and allocated correctly. *The infringement notice number is on the front page of this notice – top left corner.*
- Enter the full amount of the infringement notice fee.

**Note:** Some mobile internet banking applications do not allow you to edit the notice number. If you make an error in the notice number or can't enter the correct notice number the fee paid will not be credited to the correct notice and you may become liable for additional fees. If your mobile application does not allow you to edit the notice number, please use a computer to pay via internet banking or pay using another method.

### Telegraphic Transfers

**Account Name: Financial Markets Authority**

Bank: Westpac, 318 Lambton Quay, Wellington

Bank Account Number: 03-0584-0296289-00

Swift Code: WPACNZ2W

BSB or Sort Code: 03-0584

**Please ensure you:**

- Accept both the payer and the payee bank fees. Otherwise your infringement fee will be short paid.
- Enter your **infringement notice number** (*The infringement notice number is on the front page of this notice – top left corner*)

### In person at a Westpac Branch

You can **pay by cash or cheque** at Westpac branches with Smart ATMs:

- Follow the step by step instructions.
- FMA's bank account number: 03-0584-0296289-00.
- Ensure you enter the correct **infringement notice number into the payment reference field**, as a reference to ensure your payment is allocated correctly. *The infringement notice number is on the front page of this notice – top left corner.*
- Keep your receipt.
- If you are paying by cheque, please allow enough time for your cheque to clear (at least 5 working days) before the due date.

### By Post

**Make your cheque payable to: Financial Markets Authority**

- Attach the Remittance Advice below and mail with your cheque to the address on the Remittance Advice.
- Do not send cash.
- Allow enough time before the due date for your cheque to reach us and to be cleared by the bank. Clearance requires at least 5 working days.

### Contact FMA

Please email any payment queries to [accountsreceivable@fma.govt.nz](mailto:accountsreceivable@fma.govt.nz) PHONE **0800 434 567** (if you are dialling from overseas please dial **00 64 3 962 2698**).

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## REMITTANCE ADVICE

(Please detach this part & return with your payment)

**Accounts Receivable  
Financial Markets Authority  
P O Box 106 672  
AUCKLAND 1143**

*Pacific Eagle Capital, Level 4, 17 Albert Street, Auckland 1010, New Zealand*

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**Infringement Fee Amount:** \$7,500.00