

**ENFORCEABLE UNDERTAKING UNDER
THE AUSTRALIAN CONSUMER LAW (WA)**

BETWEEN

A & J TRAINING & ASSESSING PTY. LTD. (ACN 600 709 617)

AND

ANDRE EDWARD BUCCI

AND

COMMISSIONER FOR CONSUMER PROTECTION

RECITALS

WHEREAS:

- A. **A & J TRAINING & ASSESSING PTY. LTD. (AJTA)** carries on business under that name as a supplier of training services for high risk workplace operations;
- B. **ANDRE EDWARD BUCCI** is the sole director of AJTA;
- C. AJTA's services involves:
 - i. providing training for a range of certificates issued or recognised by WorkSafe WA;
 - ii. once training and the assessment is completed for a particular individual, issuing a Notice of Assessment (**NOA**) and submitting this to a Registered Training Organisation (**RTO**); and

- iii. once the RTO has completed and issued a Statement of Attainment (**SOA**), submitting on behalf of the person who undertook the training an application, together with the necessary documentation including the SOA and NOA and application and fee, to WorkSafe WA for the issue of a licence to undertake High Risk Work.

(Services)

- D. A person issued with a NOA may commence and continue High Risk Work for a period of 60 days. After 60 days, the person is not permitted to continue to perform High Risk Work unless a complete application for High Risk Work has been submitted to Worksafe WA and is undergoing assessment.
- E. Since June 2015, the Commissioner for Consumer Protection (**Commissioner**) has received numerous complaints alleging that AJTA received payment for its services but failed to submit applications and/or necessary supporting documents in respect of persons who had undertaken and been issued with an NDA in respect of training provided by AJTA.
- F. The Commissioner considers that, in the circumstances, AJTA has contravened section 36(4) of the *Australian Consumer Law (WA)*.
- G. This Enforceable Undertaking is accepted by the Commissioner under section 218 of the *Australian Consumer Law (WA)*;
- H. If the Commissioner is satisfied that this Enforceable Undertaking has been breached, then the Commissioner may apply to a court for orders under section 218 of the *Australian Consumer Law (WA)*.
- I. This Enforceable Undertaking does not prevent the Commissioner from taking any action in respect of the matters the subject of this Enforceable Undertaking.
- J. This Enforceable Undertaking is not confidential and may be published by the Commissioner.

UNDERTAKINGS

A & J TRAINING & ASSESSING PTY. LTD. and **ANDRE EDWARD BUCCI**, upon this Enforceable Undertaking being accepted by the Commissioner, **UNDERTAKE**, pursuant to section 218 of the *Australian Consumer Law (WA)*, that:

1. In respect of each person who:

- (a) has paid, or has had paid on their behalf, any amount to AJTA for the provision of Services;
- (b) has undertaken training and been issued or been entitled to be issued with a NOA;
- (c) AJTA has failed, within 60 days of the issue of the NOA or the person's entitlement to the issue of a NOA, to submit to WorkSafe WA a complete application for the issue of a High Risk Work licence based upon the NOA and SOA;

(Relevant Trainee(s))

AJTA shall, within 2 business days of this undertaking being accepted, provide to the Commissioner, in writing, a list containing the following details about each Relevant Trainee:

- (d) the name of the Relevant Trainee;
- (e) the amount paid by the Trainee or paid on the Relevant Trainee's behalf;
- (f) if applicable, the name of the person or entity who paid on the Relevant Trainee's behalf;
- (g) the class or specification of training undertaken;
- (h) the date the training was undertaken;

- (i) the date of the issue of the NOA or the date on which the Relevant Trainee became entitled to the issue of a NOA and SOA;
 - (j) if applicable, the date of the issue of a NOA and SOA;
 - (k) if applicable, the date that AJTA submitted an application to WorkSafe WA;
 - (l) if applicable, what supporting documentation was submitted by AJTA to WorkSafe WA.
2. AJTA shall, within 14 days of the acceptance of this undertaking, in respect of each Relevant Trainee, complete the Services that AJTA agreed to provide to the Relevant Trainee, including as required:
- (a) issuing a NOA;
 - (b) obtaining a SOA;
 - (c) submitting a completed application with all necessary supporting materials to WorkSafe WA.
3. If AJTA is not capable of providing to a Relevant Trainee any or all of the services reference to in clause 2 of the undertaking within 14 days of the acceptance of this undertaking, AJTA shall immediately refund to the Relevant Trainee any amounts paid by or on behalf of the Relevant Trainee to AJTA.
4. AJTA shall, on the date which is 14 days from acceptance of this undertaking, provide to the Commissioner:
- (a) notice in writing that it has complied with clause 2 of the undertaking; or
 - (b) if AJTA has not complied with clause 2 of the undertaking:
 - (i) notice in writing of the fact of non-compliance; and
 - (ii) the name of each Relevant Trainee in respect of whom AJTA has not complied with clause 2 of the undertaking; and

(iii) a written explanation of why AJTA had not complied with clause 2 of the undertaking in respect of those Relevant Trainees; and

(iv) documents showing the giving of a refund in accordance with clause 3 of the undertaking in respect of those Relevant Trainees.

5. Andre Edward Bucci will do all things necessary to cause AJTA to comply with these undertakings.

Signed for and on behalf of:

A & J TRAINING & ASSESSING PTY. LTD. (ACN 600 709 617)

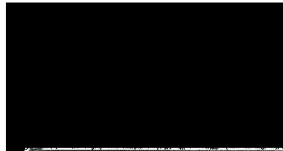
In accordance with section 127 of the *Corporations Act 2001 (Cth)*

A. **ANDRE EDWARD BUCCI**)
DIRECTOR/SECRETARY)
)



AND

B. **ANDRE EDWARD BUCCI**)
in his own right)
)



AND

C. **GARY DAVID NEWCOMBE**)
A/COMMISSIONER FOR)
CONSUMER PROTECTION)

A handwritten signature in blue ink, appearing to read "G. Newcombe", written over a horizontal line.

DATE UNDERTAKING ACCEPTED

~~25/09/15~~
29/9/15 Handwritten initials in blue ink, possibly "GJ", written below the date.