

**WESTERN AUSTRALIA**

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

PRAKORNSAK SANGTHORN

AND

**COMMISSIONER FOR CONSUMER PROTECTION**

**RECITALS**

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WHEREAS:

Prakornsak Sangthorn is a licensed real estate agent and a director of Caputo Clay Pty Ltd ACN 115 205 199. Caputo Clay carries or carried on business as a real estate agency under the business name 'Harcourts Integrity' ("**Agency**") providing real estate agent services to consumers in Western Australia.

- A. Between 1 and 31 March 2014 the Agency conducted a letter drop of advertising material which listed properties that had recently been listed or sold in the Perth suburb of Eden Hill.
- B. The Agency's advertising material distributed in Eden Hill was in a letter format and contained:
  - 1. The Agency's logo and contact information;
  - 2. Images of properties together with their listed or sale price;
  - 3. An image of Agency director Prakornsak ('Prak') Sangthorn together with his mobile telephone number and email address; and

4. The statement "*We know Eden Hill prices and if you want yours sold, call me on 0402 149 626*"
- C. Between 1 and 31 July 2014 the Agency conducted a letter drop of advertising material which listed properties that had recently been listed or sold in the Perth suburb of Bassendean.
  - D. The Agency's advertising material distributed in Bassendean was in a letter format and contained:
    1. The Agency's logo and contact information;
    2. Images of properties together with their listed or sale price;
    3. An image of Agency director Prakornsak ('Prak') Sangthorn together with his mobile telephone number and email address; and
    4. The statement "*We know Bassendean prices and if you want yours sold, call me on 0402 149 626*"
  - E. In each case, the listed properties included properties that had not been listed with or sold by the Agency.
  - F. The Commissioner for Consumer Protection ('**COMMISSIONER**') is of the view that the Agency's advertising materials may mislead consumers, contrary to section 18 of the *Australian Consumer Law (WA)*, and cause the impression that the Agency is or was the real estate agent for the listed properties.
  - G. This Enforceable Undertaking is accepted under section 218 of the *Australian Consumer Law (WA)* by the Commissioner.
  - H. Upon the Commissioner being satisfied of a breach, this Enforceable undertaking is enforceable by a court upon the Commissioner's application.
  - I. This Enforceable Undertaking is not confidential and may be published by the Commissioner.

## UNDERTAKING

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**Prakornsak Sangthorn**, upon this Enforceable Undertaking being accepted by the **COMMISSIONER**, **UNDERTAKES**, pursuant to section 218 of the *Australian Consumer Law (WA)*, that:

1. Where any advertisement created, published and/or distributed by Caputo & Clay Pty Ltd ("**Caputo**") includes a representation that properties have been sold in a certain geographic area, then unless Caputo acted as agent in respect of the sale of each of those properties, Caputo will include, in a

prominent position in the advertisement in an easily legible font and font size,  
the following:

*"Please be aware that not all properties listed were sold by Harcourts  
Integrity."*

Signed for and on behalf of:

A. Prakornsak Sangthorn



In his own right

B.  **COMMISSIONER FOR CONSUMER PROTECTION**

Signature