



ASSURANCE
Fair Trading Act 1987
Section 79

Assurance to the Commissioner for Consumer Affairs given for the purposes of section 79 of the *Fair Trading Act 1987* by:

Iguana Investments Pty Ltd (ACN 136 733 161)

1. PERSONS GIVING THIS ASSURANCE

- 1.1. This Assurance is given to the Commissioner for Consumer Affairs by Iguana Investments Pty Ltd (ACN: 136 733 161) of 28 Atlas Court, Modbury North, SA in the State of South Australia, for the purposes of Section 79 of the *Fair Trading Act 1987*.

2. BACKGROUND

- 2.1. Iguana Investments Pty Ltd (Iguana) is a former building work contractor licensed under the *Building Work Contractor's Act 1995* (the Act) (BLD 235514). Iguana's building work contractor's licence was granted on 19 April 2011 and cancelled on 16 June 2015.
- 2.2. In 2012, Iguana constructed two storey units at 68 Franklin Avenue, Mawson Lakes (Unit 1 and Unit 2).
- 2.3. Iguana failed to obtain building indemnity insurance in relation to the construction of Units 1 and 2, 68 Franklin Avenue, Mawson Lakes, contrary to s 34 of the Act.
- 2.4. Shortly after the owner purchased Unit 1 in June 2012, the upstairs balcony of Unit 2 leaked causing significant damage to Unit 1.
- 2.5. In 2012, Iguana also constructed a residential dwelling at 1 Clansman Avenue, Windsor Gardens.
- 2.6. In 2013, Iguana constructed 6 units at 7 Sandy Lane, Hackham.
- 2.7. In early 2014, the Commissioner for Consumer Affairs received a number of complaints in relation to the construction of the properties listed in paragraphs 2.3 – 2.7. An investigation was commenced which resulted in the Commissioner engaging building consultant Peter Jankovic to provide expert opinion in relation to each property, identifying items which were non-compliant with the Building Rules or considered to be poor workmanship. Mr Jankovic's findings were outlined in 9 separate reports.
- 2.8. By agreement with Iguana, the Commissioner for Consumer Affairs subsequently engaged a quantity surveyor to quantify the cost of rectification works in relation to the items listed in the reports of Peter Jankovic, with the exclusion of some items by agreement.

- 2.9. Following further negotiations, the Commissioner and Iguana executed a Deed of Settlement as an alternative to the Commissioner instituting civil proceedings on behalf of each of the consumers pursuant to s 47 of the *Fair Trading Act 1987* and disciplinary proceedings under the *Building Work Contractor's Act 1995*.
- 2.10. Pursuant to that Deed of Settlement, Iguana agreed to compensate the home owners a total of \$186,674.36 (to be distributed in specified amounts to each of the consumers) plus the costs owing to the quantity surveyor of \$8,633.86. Iguana also agreed to purchase Unit 1, 68 Franklin Avenue, Mawson Lakes from the owner for \$255,000.

3. CONDUCT OF CONCERN

- 3.1. As a result of the matters outlined above, the Commissioner for Consumer Affairs considers that there is proper cause for disciplinary action against Iguana as a former building work contractor on the following grounds:
 - 3.1.1. Performing building work, namely the constructions of Units 1 and 2, 68 Franklin Avenue, Mawson Lakes without a policy of building indemnity insurance in force contrary to s 34 of the Act;
 - 3.1.2. That Iguana acted unlawfully, improperly, negligently or unfairly in performing building work which was found to be non-compliant with the Building Rules and of poor workmanship in the construction of Units 1 & 2, 68 Franklin Avenue, Mawson Lakes, 1 Clansman Avenue, Windsor Gardens, and Units 1-6, 7 Sandy Lane, Hackham.

4. ASSURANCE GIVEN FOR THE PURPOSES OF SECTION 79 OF THE FAIR TRADING ACT 1987

- 4.1. Iguana hereby provides an assurance to the Commissioner that:
 - 4.1.1. It will not perform or engage in any building work regulated by the *Building Work Contractor's Act 1995* (SA) (to have permanent effect);
 - 4.1.2. It will not apply for a building work contractor's licence in South Australia (to have permanent effect).

5. COMMENCEMENT OF ASSURANCE

- 5.1. This Assurance comes into effect when:
 - 5.1.1. the Assurance is executed by Iguana; and
 - 5.1.2. the Commissioner for Consumer Affairs accepts the assurance so executed.

6. ACKNOWLEDGMENTS

- 6.1. Iguana acknowledges the conduct of concern outlined in paragraph 3.1 above.

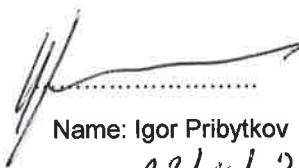
- 6.2. The Commissioner for Consumer Affairs acknowledges that Iguana has made reparation and compensation to each of the home owners as per the Deed of Settlement.

Iguana acknowledges that:

- 6.3. CBS will make this Assurance publicly available including by publishing it on CBS' public register of Assurances on its website;
- 6.4. CBS may, from time to time, make public reference to the Assurance including in news media statements and in CBS publications;
- 6.5. This Assurance may be produced to any Court in respect of any proceedings alleging any future contraventions of the *Fair Trading Act 1987* or a related Act.

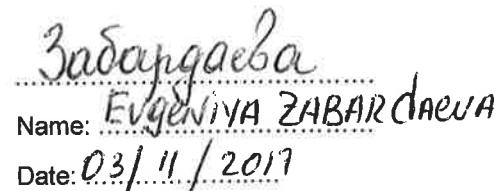
EXECUTED BY **Iguana Investments Pty Ltd (ACN 136 733 161)**, pursuant to section 127(1) of the *Corporations Act 2001 (Cth)*

Sole Director



Name: Igor Pribytkov
Date: 03/11/2017

Signature of Witness



Name: Evgeniya ZABARDAEVA
Date: 03/11/2017

Accepted by the **Commissioner for Consumer Affairs (SA)** pursuant to s79 of the *Fair Trading Act 1987*



Commissioner for Consumer Affairs (SA)

Date: 07/11/17

