



Australian
Competition &
Consumer
Commission

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NEWS RELEASE

UNDERTAKINGS REMEDY MERCY MINISTRIES MISLEADING CONDUCT

The Australian Competition and Consumer Commission has obtained court enforceable undertakings, which includes payment, from seven former directors of Mercy Ministries Incorporated and/or Mercy Ministries Limited in relation to misrepresentations by those entities.

The undertakings include an apology and a voluntary payment of \$1050 to those people affected by the conduct. These are made by former directors Mark Zschech, Peter Irvine, Mark Caldwell, Stephen Crouch, Young Pil (Phil) Sohn, Darlene Zschech and Clark Pearson.

Mercy Ministries is a not-for-profit Christian based charitable organisation which offered a residential counselling program to young women affected by issues such as eating disorders, depression, self harm, unplanned pregnancy, drug and alcohol abuse and the effects of sexual or physical abuse. The program was offered whilst the young women resided in a Mercy Ministries home.

The ACCC was concerned that in a period between January 2005 and June 2008, Mercy Ministries misrepresented in brochures and on its website that its services were provided for free, when the majority of residents were required to assign their Centrelink payments to Mercy Ministries for the duration of their stay.

The ACCC was also concerned that during this period, Mercy Ministries misrepresented that it offered professional support from psychologists, dieticians, general practitioners, social workers and counsellors, when the level of professional support was not available as represented. Mercy Ministries did not employ this range of professionals. It did facilitate access to external professionals upon request from residents.

To address these concerns, as part of the undertaking, the former directors:

- acknowledge that they were persons ultimately responsible for the conduct of Mercy Ministries, and admit its conduct was false, misleading and deceptive, and likely to contravene sections 52, 53(aa) and 53(e) of the *Trade Practices Act 1974*
- signed a joint letter of apology to past residents in the relevant period
- offer a payment of \$1050 to each of the past residents in the relevant period, and
- undertake to attend annual trade practices compliance training for three years.

Mercy Ministries operated its program in two homes, one located on the Sunshine Coast in Queensland, and the other in Sydney. Both of these homes have now closed. Mercy Ministries has ceased trading and has advised the ACCC it is in the process of being wound up.

"Given the vital role charitable organisations have in our society, and the trust placed in them, it is imperative that their conduct is of the highest standard, especially in their dealings with vulnerable and disadvantaged members of our community," ACCC chairman Graeme Samuel said today. "The utmost integrity is expected from charities - by the ACCC and the public at large - and it should be delivered.

"Misleading conduct of this kind is a matter of serious concern, and I am pleased that those directors ultimately responsible for the conduct have offered both an apology and payment to the young women affected."

Section 52 of the Act prohibits corporations from engaging in conduct that is misleading and deceptive or is likely to mislead or deceive. Section 53(aa) prohibits corporations from falsely representing that services are of a particular standard, quality, value or grade. Section 53(e) prohibits corporations from making false or misleading representations with respect to the price of goods or services. Individuals responsible for the conduct or management of a corporation are also prohibited from knowingly causing or permitting the corporations to engage in such conduct.

Media inquiries

Mr Graeme Samuel, chairman, (03) 9290 1812 or mobile/pager 0408 335 555

Ms Lin Enright, media director, (02) 6243 1108 or 0414 613 520

General inquiries

Infocentre: 1300 302 502

NR 311/09

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Outcome

- **Seven former directors of Mercy Ministries provided a court enforceable undertaking in which they:**
 - acknowledge that they were ultimately responsible for the conduct of Mercy Ministries at the relevant time, and admit that it engaged in making representations that were false, misleading and deceptive, and likely to contravene sections 52, 53(aa) and 53(e) of the Act
 - signed a joint **letter of apology** to past residents in the relevant period (January 2005-June 2008);
 - offer a **payment of \$1050 to each of the past residents in the relevant period**; and
 - undertake to attend annual trade practices compliance training for three years.

Talking Points / ACCC Position

- The matter involves disadvantaged and vulnerable consumers (specifically in 'situational vulnerability'). Protecting this group of consumers is a continuing priority for the ACCC.
- The matter also involves a charitable organisation which made misleading representations to the public, to its sponsors, and to the very people it sought to assist.
- Charities are not immune from the Trade Practices Act. Where charities engage in trading activities, they can fall within the ambit of the Act, like any other corporation, and must therefore refrain from engaging in conduct that is likely to breach the Act.
- It is expected, by the ACCC and the community at large, that charitable organisations act with the highest integrity, honesty and transparency in procuring funding from the public and its sponsors.
- The ACCC is facilitating the payments from the former directors of Mercy Ministries, and will contact the eligible residents directly regarding the offer of payment in the amount of \$1050.
- The total amount available for distribution is \$118,154. It will be offered to 110 past residents of Mercy Ministries in the relevant period January 2005 to June 2008.
- Mercy Ministries has ceased operation in Australia and have commenced the process of winding up.