



Trade Practices Act 1974

Undertaking to the Australian Competition & Consumer Commission given for the purposes of section 87B

By

Advanced Medical Institute Pty Limited

ACN 095 238 645

PERSON GIVING UNDERTAKING

1. This undertaking is given to the Australian Competition and Consumer Commission ('the ACCC') by the Advanced Medical Institute Pty Limited (ACN 095 238 645) ('AMI') of Suite 102, Level 1, 181-183 Oxford Street Bondi Junction in the State of NSW under section 87B of the *Trade Practices Act* ('the Act').

BACKGROUND

2. AMI carries on the business of providing impotency and erectile dysfunction treatments through a number of clinics throughout Australia.
3. Between February 2001 and April 2002, AMI published a series of advertisements for its impotence and erectile dysfunction treatments in the print media, television and other promotional material. The advertisements claimed that the treatments provided did not involve the use of needles or tablets, were suitable and results were guaranteed irrespective of the patients' medical condition, would produce a larger and fuller erection, that all treating doctors had

over 6 years treating experience in sexual medicine and there would be no charge if the treatments did not work (“Representations”).

4. On 22 April 2002, the ACCC instituted legal proceedings against AMI and its Managing Director, Mr Jacov Vaisman alleging that the Representations contravened sections 52, 53, 55 and 55A of the Act - ACCC v Advanced Medical Institute Pty Limited & Jacov Vaisman (No. N325 of 2002) (“Proceedings”).
5. On 2 December 2003, in the Proceedings the Federal Court declared that AMI and its Managing Director, Mr Jacov Vaisman, had contravened section 52 of the Act in relation to a number of the Representations made in its advertisements.
6. In order 7 of the Court’s orders in the Proceedings AMI agreed to provide an undertaking pursuant to section 87B to the ACCC within 14 days of the making of those orders to effect refunds to a number of consumers.

COMMENCEMENT OF UNDERTAKING

7. This undertaking comes into effect when:
 - (i) The undertaking is executed by AMI; and
 - (ii) The Commission accepts the undertaking so executed.

UNDERTAKINGS

8. AMI makes the following undertakings for the purposes of section 87B of the Act in respect of its conduct outlined above.

REFUNDS

9. AMI will within 14 days of the acceptance of this Undertaking by the ACCC, send a letter in the form of Annexure C to the Orders in the Proceedings to each of the persons who have not received full refunds in KLKC 4 and to each of the persons identified in Schedules KLKC 7 and KLKC 8 to the affidavit of Kwinfee

Loa-Kum-Cheung sworn on 21 November 2002 in the Proceedings who are indentified in those Schedules as having sought a refund from AMI because the treatment was not effective but who have not yet received such refund in full (such patients to be identified by the ACCC in writing within 7 days).


10. AMI will within ten days of receipt of each copy of the letter in the form of Annexure C forward to the person a refund cheque in the sum calculated in or by reference to Exhibits KLKC 4, 7 and 8 to Mr Loa's affidavit sworn in the Proceedings on 21 November 2002.
11. AMI will on or before 28 February 2004 deliver to the ACCC a statutory declaration from Mr Jacov Vaisman or a responsible officer of AMI identifying the steps which have been taken by AMI in compliance with paragraphs 9 and 10 above.

IN WITNESS of these undertakings and this agreement:


Executed by Advanced Medical Institute Pty Limited

Pty Ltd ACN 095 238 645 in accordance with s.127 of the Corporations Act 2001

in the presence of:



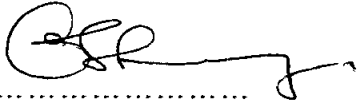
Jacov Vaisman, a Director and



Timothy Kinsella, a Director

This 23rd day of February 2004

ACCEPTED by the Australian Competition and Consumer Commission pursuant to
Section 87B of the Act.



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(Graeme Julian Samuel)

Chairman

This 26^r day of February 2004