

EXECUTIVE OFFICE



Australian
Competition &
Consumer
Commission

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18 December 2009

The Hon Craig Emerson
Minister for Competition Policy and Consumer Affairs
PO Box 349
WOODRIDGE QLD 4114

Dear Minister

Mercy Ministries

I refer to the correspondence that The Hon Chris Bowen received from Senator Lyn Allison in March 2008, which was then forwarded to the Australian Competition and Consumer Commission (the Commission) for consideration. Senator Allison requested the Commission investigate reported allegations of misleading and deceptive conduct by Mercy Ministries in its dealings with vulnerable young women suffering from mental, health and life issues.

I wish to inform you that as a result of our investigation, seven former directors of Mercy Ministries Incorporated and Mercy Ministries Limited have offered a section 87B Undertaking to the Commission. The Undertaking includes an apology letter to the eligible young women who attended the program between 2005 and 2008, and an offer of a one-off payment of \$1050 to those young women affected by the conduct.

For your information, I have enclosed the Commission's media release issued on 16 December 2009 in relation to the matter.

Should you or your staff wish to discuss this matter directly with one of our investigators, please contact Ms Caroline Serrano of the Brisbane office on (07) 3835 4666.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brian Cassidy'.

Brian Cassidy
Chief Executive Officer



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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

16 December 2009