

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

BETWEEN

RICHARD KEITH OTTON;
RICK OTTON.COM PTY LTD (ACN 111 569 209); &
WE BUY HOUSES PTY LTD (ACN 094 068 023)

AND

COMMISSIONER FOR CONSUMER PROTECTION

RECITALS

WHEREAS:

A. RICHARD KEITH OTTON, RICK OTTON.COM PTY LTD (ACN 111 569 209), & WE BUY HOUSES PTY LTD (ACN 094 068 023) (Collectively, the **Otton Parties**) carry on the business of promoting and selling a system (**Otton Scheme**) by which:

A.1. A promoter (**Promoter**):

A.1.1. Identifies a prospective seller of real property;

A.1.2. Offers the seller \$1 (or other nominal amount) for an option to buy the real property in the future at a fixed price (**Promoter's Exercise Price**), on the basis that:

A.1.2.1. The Promoter agrees to pay instalments in an amount greater than the market rental value of the real property (**Promoter Payment**)

A.1.2.2. The seller remains the registered proprietor of the real property until the option is exercised

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- F. The Otton Parties operate the following internet websites (**Otton Websites**):
- F.1. <http://www.howtobuyahouseforadollar.com>;
 - F.2. <http://www.rickotton.com>; and
 - F.3. <http://massivepassivecash.com.au/>
 - F.4. which:
 - F.5. Promote the Otton Scheme; and
 - F.6. Contain the Scheme Representations
- G. The Commissioner for Consumer Protection (Western Australia) (**Commissioner**) has raised concerns with the Otton Parties that the Scheme Representations may be capable of misleading Western Australian consumers, in contravention of the *Australian Consumer Law (WA)* (**ACL**), because:
- G.1. The Otton Scheme provides for the Promoter to pay \$1 (or other nominal amount) for an option to purchase a house;
 - G.2. But in order to acquire title to the house, the Promoter must exercise the option;
 - G.3. And in order to exercise the option, the Promoter must pay the Promoter's Exercise Price;
 - G.4. hence, the Otton Scheme does not actually enable anyone to become the registered proprietor of a house for \$1 (or other nominal amount); and
 - G.5. A buyer may not necessarily satisfy banks' lending requirements merely by pointing to the Buyer Payment over time as proof of creditworthiness.
- H. The Commissioner has also raised concerns with the Otton Parties that the One Day Event Representation may be capable of misleading Western Australian consumers, in contravention of the ACL, because:
- H.1. the Otton Parties do not teach attendees how to buy a house for \$1 (or other nominal amount); and
 - H.2. the Otton Parties do not offer anything for free but instead promote paid courses to be held subsequently at which attendees are promised they would be taught how to use the Otton Scheme.
- I. The Otton Parties provide these enforceable undertakings without any admission that the Otton Parties have contravened the ACL.

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- J. The Otton Parties acknowledge that this enforceable undertaking is enforceable by a court upon acceptance by the Commissioner under section 219 of the ACL.
 - K. All parties acknowledge that the rights of consumers are not, and cannot be, affected by this enforceable undertaking.
 - L. This enforceable undertaking will not be treated as confidential by the Commissioner.

UNDERTAKINGS

The OTTON PARTIES do UNDERTAKE that:

1. For not less than two (2) years from the date of this instrument, the Otton Parties will not, nor employ, endorse, finance, fund, promote, permit any other person to, conduct any presentations in Western Australia which promote the Otton Scheme or any substantially similar scheme;
2. For not less than two (2) years from the date of this instrument, the Otton Parties, will not, nor cause any other person to, publish via the Otton Websites, whether expressly or impliedly, and whether by text, audio, or video, the:

2.1. \$1 House Representation; and

2.2. Profit Without Initial Investment Representation;

unless where or when the \$1 House Representation or Profit Without Initial Investments Representations are made the following statement is also prominently displayed so as to be visible to Western Australian consumers:

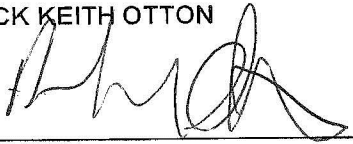
"The Commissioner for Consumer Protection (WA) has requested that the following clarifications be conveyed to our Western Australian customers:

- A. In order to become the owner of real estate, the purchase price for the property ultimately must be paid;
- B. This system does not enable you to become the owner of a house for \$1 – you can only purchase an option for \$1. This system may provide you with an initial step towards owning real estate.
- C. The making of instalment payments can be seen by banks as a sign of credit worthiness for future lending, but it is not the only factor considered. You may not necessarily satisfy a bank's lending requirements just by pointing to payments of instalments over time as proof of creditworthiness
- D. It may be unlawful in Western Australia to effect transactions of real estate between other people without holding a real estate agent's licence under the *Real Estate and Business Agents Act 1978 (WA)*. You should obtain legal advice relevant to your circumstances before operating a rent-to-buy business in Western Australia.";

3. For not less than two (2) years from the date of this instrument, the Otton Parties will not, nor employ, endorse, finance, fund, promote permit any other person to, sell, offer for sale or distribute, to Western Australian consumers the Otton Scheme Book or any other material promoting the Otton Scheme.

Signed for and on behalf of:


RICK KEITH OTTON



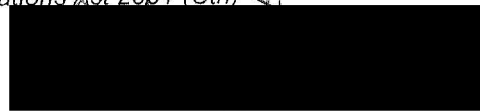
AND

RICK OTTON.COM PTY LTD (ACN 111 569 209)


In accordance with section 127 of the *Corporations Act 2001 (Cth)*



Full Name of Director



Signature of Director



Full name of Director/Secretary
(if required)



Signature of Director/Secretary (if required)

AND

WE BUY HOUSES PTY LTD (ACN 094 068 023)


In accordance with section 127 of the *Corporations Act 2001 (Cth)*



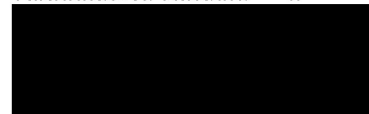
Full Name of Director



Signature of Director



Full name of Director/Secretary
(if required)



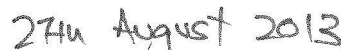
Signature of Director/Secretary (if required)

AND

COMMISSIONER FOR CONSUMER PROTECTION



Signature



Date of Acceptance