

Update - Port Phillip Publishing penalised

The Federal Court of Australia has found an AFSL holder and its former director made misleading and deceptive statements about an investment strategy targeting retired investors and investors approaching retirement, said to mimic the performance of the Australian Government's Future Fund.

Port Phillip Publishing and its former director, Kristan Sayce, reached agreement with ASIC on the facts to be considered by the Court and the resulting contraventions of the law and the parties made joint submissions on those matters and on the declarations that should be made and penalties imposed as a result. The Court then ordered the following penalties for PPP and Mr Sayce as were proposed by the parties in that joint submission:

- \$600,000 penalty for PPP; and
- \$50,000 penalty for Mr Sayce.

The two documents in which the misleading statements were made were published in September 2017 and entitled '*Everyday Australians Now Legally Piggybacking the Future Fund...and collecting extra monthly income injections of \$540 right up to \$6,667*' (**Promo Letter**) and '*Your Quick Start Guide to Piggybacking the Future Fund*' (**Guide**).

PPP published the Promo Letter, promoting the Guide, on two of its websites and emailed copies of the Promo Letter to approximately 200,000 subscribers. The Promo Letter and Guide promoted investing in a portfolio of specific listed investment companies and exchange traded funds which was said could mimic the performance of the Australian Government's Future Fund. The Future Fund is Australia's sovereign wealth fund. It is not open to direct public investment.

PPP's Guide could only be accessed if a person subscribed to a service called Total Income and paid a subscription fee (\$49). 823 people paid for a copy of the Guide. The parties also submitted that representations contained in testimonials about the Promo Letter were false and misleading.

'If investors had adopted the investment strategy in PPP's Guide, they were likely

to have generated lower returns than the returns promoted in the Promo Letter and exposed investors to a greater level of risk than that adopted by the Future Fund in September 2017. ASIC seeks to promote confident and informed participation of investors and in this case, investors were misled,' said ASIC Deputy Chair Daniel Crennan QC.