

Article Information

Author: Martin Lovell, Daniel Harris

Service: Banking & Finance, Personal Property Securities, Restructuring & Insolvency

Sector: Financial Services, Government

AFSA lays criminal charges in relation to a misuse of the PPSR

AFSA has announced it is pursuing criminal charges against a Queensland man in relation to his alleged misuse of the PPSR and provision of fabricated security documentation to AFSA.

Have you made a registration on the Australian Government's online noticeboard of security interests over personal property, known as the Personal Property Securities Register (PPSR)? It is the register maintained under the Personal Property Securities Act (PPSA).

Before making the registration, did you consider whether you had reasonable grounds to believe that the person you were listing in your registration as the secured party was, or would become, a secured party in relation to the assets described in the registration? That is, did you have reasonable grounds to believe that your registration related to a genuine 'security interest' (as defined in section 12 of the PPSA) over those assets?

Hopefully you did. If you didn't, the end of the financial year is a great time to conduct a review of your business's existing PPSR registrations to ensure they correctly record only genuine security interests in favour of your business.

The consequences of creating or maintaining unfounded registrations on the PPSR has been highlighted in a recent media release published by the Government regulator who administers the PPSR, the Australian Financial Security Authority (AFSA).

AFSA is pursuing charges against a Queensland man who is alleged to have misused the PPSR and falsified a security agreement relating to a Ford Mustang. For those not familiar with the PPSA lingo, the 'security agreement' is the document which evidences the security interest to which the registration relates - such as the charge or chattel mortgage document relating to the vehicle. According to AFSA's media release, the man has been charged with one offence of dishonestly influencing a Commonwealth public official.

This is not the first time AFSA has pursued criminal charges against an individual in relation to a misuse of the PPSR. As stated in the AFSA media release, AFSA takes a proactive role in preserving the integrity of the information on the PPSR.

The charges are also a clear warning to anyone who might consider fabricating or back-dating a document for the purpose of retrospectively supporting an unfounded PPSR registration - if AFSA suspects you have done this in relation to documents you submit to it, prepare for serious consequences.

AFSA's full media release is available [here](#).

Key takeaways

- You should only use the PPSR to register genuine security interests.
- Making an unauthorised registration on the PPSR and retrospectively fabricating or back-dating documents to support it (for example, making a baseless registration in order to frustrate a proposed sale of an asset) can lead to severe consequences - including criminal charges.

If you need help determining what you should or should not be registering on the PPSR or what steps you can take to protect your interest in vehicles, goods or any other property, [please contact us](#). We are specialists when it comes to PPSA advice.