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24 February 2011

Mr Burke Reschke
Koonara Management Pty Ltd
PO Box 5
Coonawarra SA

Dear Burke,

COONAWARRA WINEGRAPE PROJECT

In regard to current matters under discussion please note the following:

1. Sublease

The owner of the land at the relevant time was Trevor Reschke. Under the terms of the Prospectus, Coonawarra Property Holdings Limited (**CPH**) was to acquire the land on which the Project was to be carried out.

It was represented by the directors of CPH in the Prospectus (which included Burke Reschke):

"Reschke Vineyards Pty Ltd will take up any shortfall in subscriptions necessary to fund the purchase the land for the Coonawarra Wine-grape Project.

It is intended that CPH will purchase such part of the property as is necessary to satisfy the land area required for the purpose of the Coonawarra Wine-grape Project.

CPH will provide the relevant property required for the Coonawarra Wine-grape Project by way of lease and will, as a result, receive lease fees.

There is no minimum subscription level because Reschke Vineyards Pty Ltd will subscribe for such shares as are necessary to provide CPH with the funds to purchase the required area of land for the Coonawarra Wine-grape Project.

Pending the acquisition of the land by CPH, the then owner of the land, Trevor Reschke, granted a lease over the land and CPH granted an underlease of

the land to Australian Rural Group Limited (**ARG**) which was then custodian for the Project. This lease was in registrable form being signed by all necessary parties including Trevor Reschke, CPH and the mortgagee of the land as well as being stamped. Huntley has a copy of this document. At that time the compliance plan only required a lease in registrable form which was the case.

The signed underlease was sent to Thompson Playford for registration on 5 September 2000. They have been asked for an explanation on what has happened to the registration of the underlease but have not answered our lawyer's correspondence. I presume this is because they, Thompson Playford, are being sued by you.

CPH has continued to receive the rent payable under the lease.

Trevor Reschke subsequently died and the property was transferred by his estate to Reschke Vineyards Pty Ltd, a company wholly owned by you and for who you act as the sole director. Reschke Vineyards Pty Ltd owns 8,999,999 of the 9,209,999 shares on issue in CPH being 97.72% of the total issued capital. You are the sole director of CPH.

In this regard you should be aware that there is an important and relevant WA Court of Appeal decision which has some similarities to the present case where the Court ordered specific performance based on acts of part performance by the "tenant". The Court said that objectively viewed the "tenant" and the "landlord" had conducted themselves as if there was an agreement between them for the "landlord" to lease the premises to the "tenant" on the same terms as those contained in the lease signed by the "tenant" with the previous owner of the premises including the term described in that document (*Lighting by Design (Aust) Pty Ltd v Cannington Nominees Pty Ltd* [2008] WASCA 23 (8 February 2008)).

Based on this decision, we would have reasonable prospects of success in obtaining an order for specific performance of the lease particularly given the common thread of your name through the documents.

2. Winding up of the Project

HML will not be able to wind up the Project on the basis of a resolution of members in the Project unless we can get at least 50% in value of the votes that may be cast by members on a resolution to wind up the Projects (including members who are not present at the meeting in person or by proxy). For example, if there were 100 votes of equal value that could be cast by members on an extraordinary resolution to wind up the Project we would need at least 50 votes in favour of that resolution even if there were only say 55 present at the meeting in person or by proxy.

If you control more than 50% in value of the votes that may be cast on such an extraordinary resolution then you will be able to prevent that extraordinary resolution being passed.

In these circumstances, the appropriate alternative would be for HML to make an application to the Court for an order directing us to wind up the Project on the just and equitable ground pursuant to section 601ND of the Corporations Act, 2001. This appears to be a very wide power and again you should be aware of the following:

In *Re PWL Ltd; Ex Parte PWL Ltd (Formerly Palandri Wines Ltd) (admins apptd) (No 2)* it was held amongst other things that:

- the expression 'just and equitable' in this context is broad and designed to accommodate a multiplicity of situations and it is not possible to define the phrase in exhaustive terms;
- in each case it will be a question of fact for determination upon the evidence relating to the scheme or corporation put before the court citing with approval *Re Tivoli Freeholds Ltd* [1972] VR 445, 468; and *Ebrahimi v Westbourne Galleries Ltd* [1973] AC 360, 374;
- a determination of whether or not it is just or equitable to wind-up the entity will not depend upon particular factual categories citing with approval *Re Straw Products Pty Ltd* [1942] VLR 222, 223;
- guidance can be derived from authorities dealing with applications to wind-up an unregistered scheme and in this regard he made reference to a case to which HML were a party, *Cumulus Wines Pty Ltd v Huntley Management Ltd* (2004) 50 ACSR 58 noting that in that case the court observed that the schemes there should be wound-up where the estimated future income of the scheme was unlikely to achieve a return for investors and there was no realistic basis for expecting that future income and expenses would change to such a degree as to make a return to investors achievable and therefore it was untenable for the schemes to continue in their then current state;
- it is just and equitable for the court to intervene and to wind-up a registered scheme where the original arrangement as set out in the prospectus of the scheme has broken down citing *Australian Securities and Investments Commission v Knightsbridge Managed Funds Ltd* [2001] WASC 339;

In this case the Court found that it was not possible for any of the schemes to achieve its stated purpose and that each of the schemes was insolvent and without any prospect of being able to trade profitably under present circumstances and therefore it was just and equitable that they be wound up.

The Court accepted the evidence that the schemes were not viable based on an analysis undertaken by Davidson Viticulture that the 'grape growing aspect' of the scheme was not viable because, for the remaining life of the scheme, members would suffer a total loss of in excess of \$24 million (in constant 2008 dollars) in respect of the grape growing aspect of that scheme.

Based on these cases if we can show with evidence that the scheme is not viable, we should be able to get an order that the scheme be wound up.

3. Transfers of Grower's Participations

In regard to the transfer of Member's interests in the Project you should note that Clause 16.1 of the Constitution provides that a Member's Scheme Interest may be transferred provided that such transfer is a transfer of the entire unencumbered interest of the Member in the Scheme pursuant to the Joint Venture Agreement.

Clause 16.2 of the Constitution provides that no transfer of a Member's Scheme Interest shall be of any effect unless and until such transfer is accepted by HML and no such transfer shall be accepted by HML unless the following have been delivered to us:

- 1.1 the Member's part of the Joint Venture Agreement;
- 1.2 any title document issued to the Member in respect of the Member's Scheme Interest;
- 1.3 a duly stamped transfer in triplicate executed by the transferor and transferee of the Member's Scheme Interest substantially in the form set out in Schedule One (or such other form as we agree);
- 1.4 a duly executed and stamped transfer in a proper and current registrable form to the extent that a separate and registrable transfer document is required in addition to those referred to in clause 3.3 above to fully effect the transfer of the Member's Scheme Interest to the transferee.

On the basis of the above, HML is not in fact entitled to accept a transfer that is not:

- stamped;
- executed by the transferor and transferee;
- that is not substantially in the form set out in Schedule One;
- accompanied by the Member's part of the Joint Venture Agreement;
- is not in triplicate.

As an example the transfer form received this week from Luke Dickson to Reschke Vineyards Pty Ltd is:

- stamped;
- executed by the transferor and transferee; and,
- is substantially in the form set out in Schedule One.

We would have to accept the transfer provided it was:

- in triplicate; and,
- accompanied by the Luke Dickson's part of the Joint Venture Agreement.

If we have not received these then we are entitled not to register the transfer and in fact are not supposed to do so.

In another example, the transfer form received earlier last year from James Dickson does not comply at all with the requirements of the Constitution. Firstly it is not stamped and secondly it has had clause 1.3 partially deleted and therefore is not substantially in accordance with the form of transfer in Schedule One.

Further, pursuant to clause 16.3 of the Constitution we may refuse to register a transfer of a Member's Scheme Interest while there are any moneys due and unpaid under the terms of the Joint Venture Agreement or in relation thereto by that member.

Therefore HML may reject any transfer if there are any outstanding monies owed by the transferor.

4. Release

Attached is a form of release as requested.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'John H Knox', written in a cursive style.

John H Knox
Managing Director
Huntley Management Ltd
ABN 52 089 240 513