

MEMORANDUM

TO: MICHAEL MALANOS
FROM: SIMON GRIESZ
DATE: 27 DECEMBER 2005
RE: DARRELL HENDRY
MATTER NO: 021066

Background

1. We act for Darrell Hendry.
2. darrell's contact is on his business card inside the file. in addition he has asked us to email him at endry@bigpond.com.au.
3. he entered into a contract for sale of land to purchase the tattersall's hotel Armidale for \$2.65 million as a successful tenderer.
4. the sale includes a hotelier's licence, plant, furniture and 15 gaming machines
5. his accountant is Geoff walker of walker laanema.
6. Darrell intends that a company (called armpub no1 pty ltd) acting in its capacity as trustee of 2 unit trusts, will acquire the hotel - so we need to rescind and re-exchange contracts.
7. one unit trust is for Darrell's interest and the other is for his business partner, whom we have not met.
8. there is a diagram of the structure in the file prepared by geoff walker.
9. the current contract has a completion date of 17 Jan 2006.
10. the vendors have agreed in principle to:
 - (a) extend the time for completion to at least 31 jan 2006 and hopefully a little longer;
 - (b) rescind the current contract with Darrell and exchange a new contract with armpub no1. pty ltd
11. Darrell has private sources to fund the purchase.
12. the vendor's solicitor is Bruce Atkinson - his email is bruceatkinson@wwwsolicitors.com.au, although he prefers corresponding by fax (details on the contract front page inside the file). He is reasonable to deal with.

What has happened so far

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1. We have written a letter of advice to Hendry regarding the contract and what has to be done- you can read this to give you a background.
2. We have sent off the purchaser enquiries under the name of the purchaser.
3. We have sent requisitions on title to the vendors solicitors to comply with the 21 days.
4. we have drafted a deed of rescission which has been sent to the client and the vendor's solicitor for comment and approval.
5. I have downloaded the hotelier's licence application forms and sent them to the client to consider.

What needs to be done

1. we need to get the agreement for the extension of time confirmed in writing so that it is binding on the vendor, pending rescission and re-exchange - chase up Darrell for the position of his talks with the vendor.
2. we need the accountant to give us:
 - (a) the ACN for armpub no1 pty limited;
 - (b) the names of the new unit trusts that will beneficially own the hotel;
3. ~~we need Darrell to~~
 - (a) tell us the name of the licensee;
 - (b) the entity that will apply for the transfer of the hotelier's licence;
 - (c) advise us which employees he will re-employ at the hotel;
4. you will need to chase Darrell hard for any information - he seems to lack urgency.
5. ~~we need to do the following simultaneously in early January 2006:~~
 - (a) the Vendor and Mr Hendry execute a deed of mutual rescission to rescind the existing Contract;
 - (b) Armpub No1 Pty Limited enter into a new contract with the Vendor to purchase the hotel on the same terms, save for the stock take clause being limited to \$25,000.00 and a new completion date; and
 - (c) Mr Hendry will provide the Vendor with a written direction to apply the deposit paid under the existing Contract towards the deposit under the new contract.
6. I have drafted the direction to the vendor re the deposit and it is inside the file.
7. ~~get instructions to fill in the details for the liquor licensing forms so we can send them to the vendor's solicitor ASAP - the vendor's solicitor will need the completed forms sometime in the week beginning 9 Jan 2006- you will need to chase Darrell for this hard - he is slow to move.~~
8. ~~you will need to do a section 66W cooling off for the exchange of new contracts~~
9. stamp duty will be an issue, that is to get the existing contract assessed as liable to nil duty under section 50(1) of the Duties Act after it has been rescinded - this may be able to wait until I return.
10. ~~send new requisitions on title once we exchange new contracts.~~

If you have any queries please do not hesitate to ask me.

SWG