

MALLESON'S STEPHEN JAQUES

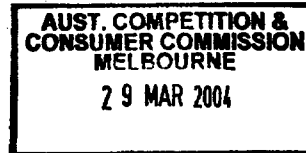
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Regional Director
Australian Competition and
Consumer Commission
Level 35
The Tower
360 Elizabeth St
MELBOURNE VIC 3000

24 March 2004

A Bodger
Partner

Direct line
(+61 3) 9643 4069



Dear Sir/Madam

National Australia Bank Limited - Notification of Third Line Forcing Exclusive Dealing

We act for National Australia Bank Limited ("National").

We enclose for lodgement an exclusive dealing notification on behalf of the National under section 47 of the *Trade Practices Act 1974* (Cth). We also enclose a cheque for the applicable lodgement fee of \$1,000.00.

This covering letter sets out a short description of the transaction that gives rise to the relevant third line forcing conduct.

The National provides, amongst other things, wealth management and financial planning services to retail customers. Those customers are serviced by employees of the National on its behalf. One of the National's current employees has been successful in developing the National's wealth management and financial planning services. The employee has resigned from employment by the National in order to set up as self-employed financial adviser. Given that notification material is made public, the National has not named the employee or the company employing him ("Employee"). We would be happy to provide to you on a confidential basis, the names if so required.

The National wishes to enter into termination and transfer arrangements with the Employee so that he can continue to provide wealth management and financial planning services to retail customers (including those customers whom they have serviced to date and who wish to continue to be serviced by the Employee). As part of these termination and transfer arrangements, information and records will be provided to the Employee so that he can continue to service certain National customers, if the customers so choose.

As you would know, to provide financial services, or advice in relation to financial products, advisers must operate under the licensing regime of the *Financial Services Reform Act 2001* (Cth) ("FSRA"). A subsidiary of the National, Godfrey Pembroke Limited ("Godfrey

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MALLESONS STEPHEN JAQUES

Australian Competition and Consumer Commission

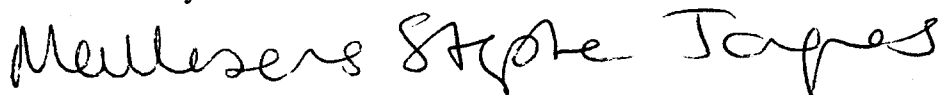
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Pembroke") is already licensed as a provider of financial services and financial product advice. Godfrey Pembroke obtained its Australian Financial Services Licence ("AFSL") under the FSRA on 1 December 2003. Godfrey Pembroke is willing to engage the Employee as and Authorised Representative so as to allow him to operate under its AFSL.

In order to be confident that the Employee complies with his statutory and client obligations under the FSRA regime, the National proposes to provide to him certain information and records on condition that he acquire licence-related services from Godfrey Pembroke. This will facilitate the Employee complying with the relevant financial services legislation and will make the transfer as seamless as possible for the retail customers of the National who to date have been serviced by the Employee and who wish to continue to be serviced by the Employee after the transfer.

Please contact Amanda Bodger of this office should you have any queries or comments.

Yours faithfully

A handwritten signature in black ink that reads "Mallesons Stephen Jaques". The signature is written in a cursive, flowing style.

Encl 1

FORM G**Regulation 9**

COMMONWEALTH OF AUSTRALIA
Trade Practices Act 1974 - sub-section 93(1)
EXCLUSIVE DEALING: NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or proposed conduct of a kind referred to in sub-section 47(6) or (7) of that Act in which the person giving notice engaged or proposes to engage.

1. (a) Name of person giving notice:

National Australia Bank Limited (ABN 12 004 044 937) of Level 24, 500 Bourke Street, Melbourne, Victoria ("National").

(b) Short description of business carried on by that person:

The National provides banking services, products and systems, and specifically provides wealth management advisory services and financial planning services to retail customers.

(c) Address in Australia for service of documents on that person:

C/- Amanda Bodger
Mallesons Stephen Jaques
Level 28, Rialto
525 Collins Street
Melbourne VIC 3000

2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

Products and services supplied by the National being provision of certain information and records and client service rights related to its wealth management and financial planning business ("National Services").

(b) Description of the conduct or proposed conduct:

National has entered into agreements with one recently terminated employee (or his new employer) ("Employee") pursuant to which, the National will:

- (i) supply or offer to supply National Services to the Employee on the condition that the Employee acquire or agree to acquire Godfrey Pembroke Services (as defined below) from Godfrey Pembroke Limited (ABN 23 002 336 254) of Level 1, 105-153 Miller St, North Sydney, NSW, a wholly-owned subsidiary of the National ("Godfrey Pembroke");

- (ii) refuse to supply or refuse to offer to supply National Services to the Employee if he does not agree to acquire Godfrey Pembroke Services (as defined below) from Godfrey Pembroke.

Godfrey Pembroke provides financial services and financial product advice related services including sales, marketing, training and other advisory services and professional support services ("**Godfrey Pembroke Services**").

The proposed conduct will be of benefit to the public as it will:

- allow greater competition in the markets for wealth management and financial planning services by enabling the Employee to operate in a broader capacity as a financial planner;
- assist the Employee to achieve compliance with relevant financial services legislation;
- assist those clients of the National who choose to be serviced by the Employee to continue to receive high quality financial advice from the financial planner of their choice;
- assist National and Godfrey Pembroke (as related bodies corporate) to achieve greater efficiencies and improve services to retail consumers through the financial planners.

The proposed conduct will not lessen competition in the markets for the relevant products and services as:

- competition in the relevant markets is vigorous and there are many competitors;
- the number of financial planners potentially affected by the proposed conduct is insignificant compared to the total number of financial planners in the market; and
- Godfrey Pembroke and the National are related bodies corporate. The proposed conduct is a very technical type of third line forcing conduct which will be engaged in by two related companies. If National and Godfrey Pembroke were not related companies but different business units within the same company, and they engaged in the conduct described in this notification, they would not be engaging in third line forcing conduct. By accepting the Dawson Committee's recommendation to amend the third line forcing provisions to exempt related companies, the Commonwealth Government has recognised the lack of detriment associated with the type of third line forcing conduct described in this notification.

The applicant believes that the benefits from the proposed conduct outlined above will outweigh any possible detriment considered to arise from the conduct.

3. (a) **Class or classes of persons to which the proposed conduct relates:**

Certain financial planners previously employed by National.

(b) Number of those persons: One

(c) Where number of persons stated in item 3(b) is less than 50, their names and addresses: N/A

4. Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:

Amanda Bodger
Mallesons Stephen Jaques
Level 28, Rialto
525 Collins Street
Melbourne VIC 3000
Tel: 9643 4069

Dated

November 2003

Signed by the person giving this notice



Amanda Bodger

Partner, Mallesons Stephen Jaques

