



**Graham G Tomkins**  
**Business Advisor**  
**Building Trade connections since 1952**

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Mr Scott Gregson  
General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

24 January 2006

**CONFIDENTIAL**

Dear Sir

Re: EXCLUSIVE DEALING NOTIFICATION N31493  
LODGED BY JAMES HARDIE AUSTRALIA PTY LTD

Your letter C2006/71 of the 16<sup>th</sup> January 2006.

As the Founder of Guardian Building Products of Wetherill Park, I have been provided with a copy of your letter above.

I am amazed that James Hardie Australia Pty Ltd "Hardies" should again apply for the right to exclusive dealing. I note that my first dealing with Hardies was in 1952 and that whilst the Company was under Australian control and ownership, it was an exceedingly entrepreneurial and honourable company, anxious to promote and develop its customers and ensure their well-being. Today, and in recent times, they have attempted in many ways to destroy/eliminate the family company, which I commenced.

It would appear to me that the ACCC accepts that a lack of response to an issue represents tacit approval or, at worst, a disinterest in the issue. To this, I would reply absolutely not and this point of view would seem to deny the purpose of the ACCC and ignores reasons, which may logically apply to a failure to respond – such as fear, intimidation and threats of retaliation.

Allow me to note some cases of which I am personally aware –

Case 1 – Brisbane area

"Sorry Graham, I can't support you, even though I agree, we rely heavily on Hardies, we are a family business and they could kill us. We have set up arrangements to access opposition products."

Everite Building Products Qld Reg. No. BN 18176483  
Fineline Architectural Creations NSW Reg. No. BN 97842148  
Trailer Homes of Australia NSW Reg. No. E 3844712  
Guardian Impax Security Board NSW Reg. No. M 7552417

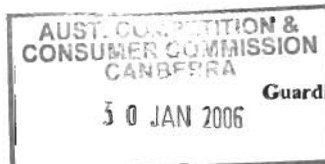
*'Shaping new ideas'*

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Advisor to:-

Guardian Consolidated Pty Ltd ABN 37 000 123 311  
GGT Family Trust ABN 70 566 804 131  
Wundaflex Pty Ltd ACN 070 133 103  
KBMT Pty Ltd ACN 108 802 759  
Tait Unit Trust ABN 38 865 602 176

Justice of the Peace NSW 5810019  
NSW Qualified Supervisor No 283525



Guardian Building Products Pty Ltd ABN 17 002 550 003  
Fibre Polymer Technology Pty Ltd ABN 96 003 510 245  
F.R.C. Fittings (East Coast) Pty Ltd ABN 86 093 428 856  
Guardian Building Products Australia Pty Ltd ABN 96 003 510 245  
Ingleston Unit Trust ABN 84 015 603 658

Qld Builder-Lowrise Lic. No. 19834  
Justice of the Peace (Qual) Queensland 76822

Case 2 – South East Queensland

“Hardies know my stand and would not attack me, but I am not going to print.”

Case 3 – ACT

“Graham you know I would do anything to support you, but Hardies believe I am squeaky clean and I can’t do anything to destroy that. You know I can get alternate product, but it’s not done through invoices – we just swap stock.”

Case 4 – Sydney Region

“We are too big an account of Hardies for them to tell us to do anything. If we like it we will do it – if not we wont.”

Case 5 – Sydney Region

“Every time Hardies close up a hole we find a way to open it. Whatever they ask us to sign that means rebate or discount we will sign, but there is no way they can control what we do.”

Case 6 – Sydney Region

“We are part of a group and what we do among ourselves is our business. Hardies can go to hell.”

Case 7 – Melbourne Region

“Those in the know have never had a problem in getting around this issue. We are not concerned.”

Case 8 – Adelaide Region

“You have to be joking if you think any supplier is going to tell us how to run our business. If a signed piece of paper means extra discount or rebate we’ll sign it and find a way to cover our tracks – it’s no big deal.”

Case 9 – Perth area

“It’s a joke – we are less than amused.”

The above are actual statements – REAL people – REAL conversations. If it were not for the fact that many mid to small companies are intimidated by verbal threats or “so and so could happen” allow themselves to succumb to the threats who would care?

Ask the many ex Hardies employees, now with CSR and BGC what they know. Ask the American “giants” how they treat dissenters to the edicts of the “big chief”. Ask the directors how they are held in check by lawyers. How Australia Hardies is simply a rubber stamp for America Hardies.

You may hold the view that I am simply a disgruntled customer. Not so – I am a completely balanced Australian who resents the “bully boy” tactics of monopolies – or those who want to be – and attempt to close the shutters on the ACCC who exist for a very valid purpose and national safeguard.

Yours sincerely



Graham G Tomkins  
JP

Copy: *Mr Kevin Rudd MP*  
*Member for Griffith*  
*Shadow Minister for Foreign Affairs,*  
*Trade & International Security*  
*653 Wynnum Road*  
*MORNINGSIDE QLD 4170*

*James Hardie Australia – M/s Meredith Hellicar*

*Cemintel (CSR) – Mr John Hodgkinson*

*BGC Group of Companies – Mr Len Buckeridge*

*James Hardie Industries NV – Mr Louis Gries*

*.All Relevant Parties Australia-wide – referred to above*