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Our Ref: BK:ojc:20524

Your Ref:

23 December 2009

Australian Competition
& Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

FILE No.
DOC.
MARS/PRISM

ATTENTION: SIMON MITCHELL

Dear Sirs,

**RE: OUR CLIENT - KALLET PTY LTD
PREMISES: 6/50 NEW QUAY PROMENADE, DOCKLANDS, VIC 3008
NOTIFICATION OF EXCLUSIVE DEALING**

We act for the abovenamed, and **enclose** herewith Form G Notification of Exclusive Dealing, together with our Business account cheque made payable to the ACCC in the sum of \$100.00.

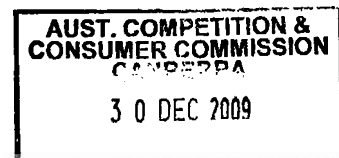
We would be grateful if you would acknowledge receipt.

Yours faithfully,



Kirby & Co.

Enc.



Form G
Commonwealth of Australia
Trade Practices Act 1974 - subsection 93(1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

1 Applicant

(a) Name of person giving notice:

N94400 **Kallett Pty Ltd ACN 069 621 987, owner of a property at 6/50 Newquay Promenade Docklands 3008**

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

Landlord

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

49 O'Briens Lane Templestowe Vic 3106

2 Notified arrangement

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

Subdivided retail property in the Arkley Tower of the NewQuay precinct at Melbourne Docklands (the "**Retail Property**").

Property management services of Metro Real Estate Services Pty Ltd as trustee for MAB Real Estate Services Trust (ACN 096 688 998) of Level 5, 441 St Kilda Road, Melbourne, Victoria 3004, trading as Precinct Management Services ("**PMS**").

(b) Description of the conduct or proposed conduct:

The Vendor proposes to:

(A) sell or offer for sale the Retail Property to purchasers on condition that purchasers acquire the property management services of PMS; and

- (B) refuse to sell or offer for sale the Retail Property for the reason that the purchaser has not agreed to acquire the property management services of PMS.

3 Persons, or classes of persons, affected or likely to be affected by the notified conduct

- (a) Class or classes of persons to which the conduct relates:

The purchaser of the Retail Property.

- (b) Number of those persons:

- (i) At present time:

N/A

- (ii) Estimated within the next year:

N/A

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

'The Retail Property has not yet been offered for sale and therefore the purchasers' details are not known'

4 Public benefit claims

- (a) Arguments in support of notification:

The proposed conduct will be of benefit to the public and will not give rise to anyjoel detriment. The reasons set out in the previous notification N40602 apply to this notification. In brief, the proposed conduct will

- ensure consistency of management between the Retail Properties and the residential and marina components of the NewQuay precinct over which the MAB Group also has management responsibilities;
- ensure compliance with the various planning laws and precinct controls imposed in respect of the NewQuay precinct by the Docklands Authority and/or Melbourne City Council (e.g. waste disposal; loading bay restrictions);
- provide owners and tenants with coordinated property management services, which should produce consistency of service, economies of scale and increased buying power in relation to shared services (eg security, cleaning, marketing, maintenance) and consequently reduced outgoings on the part of tenants and/or owners; and
- provide owners and tenants with coordinated security and maintenance, thereby enhancing the safety and appearance of the NewQuay precinct.

- (b) Facts and evidence relied upon in support of these claims:

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

- the proposed conduct will only affect the Retail Property owned by the Vendor. This represents a very small percentage of the retail properties available for purchase in the greater Melbourne area; and
- while other property managers and real estate agents will not be able to provide management and related services to the purchaser of the Retail Property during the term of the Property Management Agreement, there are numerous other owners and vendors of retail properties within retail developments and shopping centres in the greater Melbourne area which require these services.

5 Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

The relevant markets in which the proposed conduct will occur are the Melbourne retail property market and the Melbourne property management services market.

6 Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:

The proposed conduct will not result in any detriments to the public.

- (b) Facts and evidence relevant to these detriments:

See 4 (a) and (b) above.


7 Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

See 1 (a) and (c) above.

Dated 22/12/09

Signed by/on behalf of the applicant



(Signature)

CHARLES CHIU YEE NG

(Full Name)

KALLET PTY LTD ACN 069 621 987

(Organisation)

DIRECTOR

(Position in organisation)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.
2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.