



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.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

(a) Name of person giving notice: (Refer to direction 2)

N94106

M.R.M. Pty Ltd ACN 072 663 060 as Trustee for the Warren Matthews Discretionary Trust, John Rutherford Discretionary Trust and Andrew Matthews Discretionary Trust

Short description of business carried on by that person: (Refer to direction 3)

Master Franchisee North Queensland for The Cheesecake Shop franchising system which incorporates a group of independently owned retail outlets which manufacture and sell a range of cakes and savoury products to the public.

Address in Australia for service of documents on that person:

PO Box 52
Golden Beach QLD 4551

2. Notified arrangement

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

Restricting all The Cheesecake Shop sub franchisees located within the North Queensland Master Franchise Territory to purchase solely from United Network Suppliers Pty Ltd ACN 070 279 060, all readymade products and ingredients for manufacture of self-baked products authorised for sale at their franchised stores.

**(b) Description of the conduct or proposed conduct:
(Refer to direction 4)**

Under the Master Franchise Agreement between M.R.M. Pty Ltd (MRM) and The Cheesecake Shop (TCS), TCS requires MRM to ensure that to the extent legally permissible each of its franchisees purchase all ingredients for the production of all Authorised Products from MRM or a Nominated Supplier.

Pursuant to that requirement, MRM will require franchisees only to use authorised ingredients to bake authorised products and only buy those authorised ingredients and ready-made product from UNS.

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: (Refer to direction 5)

All Sub Franchisees and proposed Sub Franchisees within the territory defined within the North Queensland Master Franchise Agreement

(b) Number of those persons:

At present time: 20

Estimated within the next year: (Refer to direction 6)

21

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

Refer to attached Schedule A – North Queensland Master Franchise Territory Franchisee Listing

4. Public benefit claims

Arguments in support of notification: (Refer to direction 7)

The Cheesecake Shop franchise system involves the manufacture and retailing of a range of cake and savoury products. Generally products are manufactured on site however there is also a range of readymade products available.

Quality, consistency and public safety are important to the franchise system and franchisees. An independent laboratory validates products based on recipes and procedures provided by TCS. This allows TCS to provide ingredient and nutritional information to its franchisees which may then be provided to the end customer.

If franchisees fail to use authorised ingredients then the ingredient and nutritional information may be unreliable.

Facts and evidence relied upon in support of these claims:

Independent laboratory testing conducted for and on behalf of The Cheesecake Shop.

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): (Refer to direction 8)

The goods are to be supplied solely by UNS to all franchisees within the North Queensland Master Franchise Territory.

Similar goods are available from alternate suppliers.

6. Public detriments

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:

(Refer to direction 9)

UNS is a supplier of ingredients to The Cheesecake Shop group of franchisees. Those ingredients are subject to rigorous testing and monitoring in the interest of public safety and product consistency. Products made from those ingredients are tested by an independent laboratory.

UNS does not compete solely on price. Similar ingredients may be available from alternate suppliers.

Facts and evidence relevant to these detriments:

Independent laboratory testing conducted for and on behalf of The Cheesecake Shop

7. Further information

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

John Rutherford
Director M.R.M. Pty Ltd
c/- PO Box 52
Golden Beach QLD 4551
Phone 07 3856 5155
Email qldnorth@cheesecake.com.au

Dated 24 August 2009

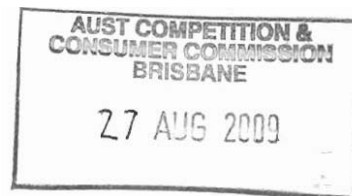
Signed by the applicant



(Signature)

(Full Name) John Edwin Rutherford

(Position in Organisation) Director



Schedule A
North Queensland Master Franchise Territory
Franchisee Listing

	LOCATION	TELEPHONE	FACSIMILE	CONTACT	ADDRESS	P/C
1	ALBANY CREEK	(07) 3325 4334	(07) 3325 4313		Shop 19 Albany Market Place	4035
2	ASHGROVE	(07) 3386 7844	(07) 3386 7955		141 Waterworks Rd	4060
3	ASPLEY	(07) 3863 4566	(07) 3863 4588		Shop 1A, 1344 Gympie Rd	4034
4	BUNDABERG	(07) 4151 2122	(07) 4151 2322		Shop B / 249 Bourbong Street	4670
5	CABOOLTURE	(07) 5499 1188	(07) 5499 1818		103 Morayfield Road	4510
6	CAIRNS	(07) 4033 7188	(07) 4033 7199		377 Mulgrave Road	4870
7	CALOUNDRA	(07) 5493 4344	(07) 5493 4355		722 Nicklin Way Currimundi	4510
8	GLADSTONE	(07) 4972 9906	(07) 4972 9926		Shop 2, Night Owl Centre Cnr Park St and Dawson Hwy Gladstone	4680
9	HERVEY BAY	(07) 4125 5904	(07) 4125 6644		Shop 3 74 Bideford Street Torquay	4655
10	INDOOROOPIILLY	(07) 3378 0711	(07) 3378 0744		246 Moggill Rd	4068
11	MACKAY	(07) 4953 2344	(07) 4953 2355		Shop 13 The Gas Works 137 Shakespeare St	4740
12	MAROOCHYDORE	(07) 5479 1577	(07) 5479 1019		61 Aerodrome Road	4558
13	MITCHELTON	(07) 3354 4800	(07) 3354 4799		640 Samford Rd	4053
14	REDCLIFFE	(07) 3284 7760	(07) 3284 7753		45 Duffield Rd Margate	4019
15	ROCKHAMPTON	(07) 4927 7077	(07) 4927 7211		122 Campbell Street	4700
16	STAFFORD	(07) 3856 1864	(07) 3856 1865		5 Sayers Street	4053
17	STRATHPINE	(07) 3205 9088	(07) 3205 9099		486 Gympie Rd	4500
18	TOWNSVILLE	(07) 4725 4788	(07) 4725 4866		190 Charters Towers Road	4810
19	WAVELL HEIGHTS	(07) 3266 3300	(07) 3266 3200		153 Hamilton Road	4012
20	WILLOWS	(07) 4773 5589	(07) 4733 7298		Shop 1, 2 Kern Brothers Drive	4817

**EXCLUDED FROM
PUBLIC REGISTER**