

30 September 2011

CIRCULAR TO INVESTORS

Dear Sir/Madam,

**TUMUT RIVER ORCHARD MANAGEMENT LIMITED (IN LIQUIDATION)
ACN 003 501 611 ("TROM")**

**MERILBAH INVESTMENTS PTY LTD (IN LIQUIDATION)
ACN 002 979 893 ("MERILBAH")**

Shabnam Amirbeaggi and I were appointed joint liquidators of Merilbah pursuant to an Order of the Supreme Court of Western Australia on 7 February 2008.

Messrs Prentice and Barilla of PPB were appointed voluntary administrators of TROM on 20 July 1998. TROM was wound up on 28 April 1999 and on 7 January 2006 TROM was deregistered. I was appointed liquidator of TROM pursuant to an Order for reinstatement made by the Supreme Court of New South Wales on 7 July 2008.

I advise that I resigned as liquidator of both TROM and Merilbah on or about 24 June 2011.

I note that on 15 August 2011 the Supreme Court of NSW selected Mr Steven Gladman from Hall Chadwick as liquidator of TROM. All future queries and correspondence must be directed to the new liquidator. Mr Gladman can be contacted as follows:

Mr Steven Gladman
Hall Chadwick
Level 29, 31 Market Street
Sydney NSW 2000
Phone: (02) 9263-2600
Facsimile: (02) 9263-2800

On 23 September 2011, Justice Hammerschlag of the Supreme Court of New South Wales ordered the termination of the liquidation of Merilbah.

My records indicate that you made a voluntary contribution to fund my investigations, public examinations and litigation with HPM. I attach an extract of my notice to creditors of 8 June 2011 (Annexure A). On 10 March 2011, the Federal Court of Australia determined that investors are not creditors of either company. Accordingly investors were not entitled to attend the meeting of creditors noted in the attached.

I have previously obtained approximately \$170,000 from investors to fund my investigations, public examinations and litigations against HPM.

As at the date of this report I have approximately \$350,000 of professional fees outstanding. As a consequence of my resignation I will have to write off these fees.

Since the date of my appointment I have incurred approximately \$380,000 in legal fees. Whilst I have paid a significant part of these legal fees, I anticipate that approximately \$50,000 will be written off by my lawyers in respect of their own professional fees.

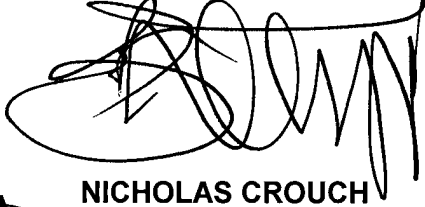
As a consequence of my resignation:

- (a) The new liquidator will receive the benefits of my investigations, public examinations and litigations against HPM;
- (b) The rights and claims against HPM currently available to investors shall not be adversely effected by my resignation; and
- (c) The assets and potential recoveries of the company shall not be adversely affected by my resignation. I reiterate that no rights or claims shall be altered as a consequence of my resignation.

To discuss this matter please contact the writer.

Yours faithfully,

CROUCH AMIRBEAGGI

A handwritten signature in black ink, appearing to read 'NICHOLAS CROUCH', written over the printed name.

NICHOLAS CROUCH
PARTNER



8 June 2011

CIRCULAR TO CREDITORS

Dear Sir/Madam,

**TUMUT RIVER ORCHARD MANAGEMENT LIMITED (IN LIQUIDATION)
ACN 003 501 611 ("TROM")**

**MERILBAH INVESTMENTS PTY LTD (IN LIQUIDATION)
ACN 002 979 893 ("MERILBAH")**

Shabnam Amirbeaggi and I were appointed joint liquidators of Merilbah pursuant to an Order of the Supreme Court of Western Australia on 7 February 2008.

Messrs Prentice and Barilla of PPB were appointed voluntary administrators of TROM on 20 July 1998. TROM was wound up on 28 April 1999 and on 7 January 2006 TROM was deregistered. I was appointed liquidator of TROM pursuant to an Order for reinstatement made by the Supreme Court of New South Wales on 7 July 2008.

During the period from 1991 to June 1998, TROM promoted, established, managed and operated eight horticultural projects. Approximately 2,000 investors who subscribed to the projects signed Investor Loan Agreements with TROM, which may have given rise to Investor Debts.

During the period 1996 to 1998, TROM purportedly assigned its right, title and interest in the Investor Debts to one or the other of Core Finance Pty Limited ("Core"), Symsung Pty Limited ("Symsung") and Treetop Projects Limited ("Treetop").

At some time between 15 March 2000 and 31 October 2000, each of Core, Symsung and Treetop purportedly assigned its right, title and interest in and to Investor Debts to Merilbah. On 31 August 2001, Merilbah purportedly assigned its right, title and interest in and to Investor Debts to HPM.

Since 2002, HPM has commenced and prosecuted various proceedings for the recovery of Investor Debts. The applications to appoint me as liquidator were made by a group of investors who were being sued by HP Mercantile Pty Ltd ("HPM") in respect of Investor Debts.

Various investors who resisted HPM debt recovery action funded my investigations into the veracity of HPM's entitlement to recover the Investor Debts. My investigations included several public examinations which required at least a dozen court attendances as HPM vigorously resisted and litigated my investigations.

The subject of my investigations include the validity of the assignments from TROM to Core, Symsung and Treetop, from Core Symsung and Treetop to Merilbah, and from Merilbah to HPM.

On 20 October 2009, the Federal Court of Australia held, in unrelated legal proceedings, that funding a class action constituted a Managed Investment Scheme.



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Suite 403, 55 Lime St, King St Wharf, Sydney NSW 2000
Tel: 02 8262 9333 | Fax: 02 8262 9300
admin@crouch.com.au | www.crouch.com.au

ABN: 26 131 856 169

In November 2009, HPM relied upon this new decision to initiate proceedings in the Federal Court of Australia alleging the funds I raised from investors to fund my investigations constituted an unregistered Managed Investment Scheme and therefore breached the *Corporations Act 2001* (the "Act"). The proceedings were not initiated by ASIC who would ordinarily run such actions and ASIC declined to participate in the proceedings.

On 10 March 2011, Justice Emmett of the Federal Court of Australia held that I was not operating an unregistered Managed Investment Scheme in contravention of the Act. Costs were awarded in my favour.

HPM has appealed the decision and the Full Federal Court is due to consider the matter in August 2011.

Settlement between HPM and liquidators

As part of a settlement due to be completed on or about 24 June 2011 between select investors and HPM, Ms Amirbeaggi and I have resolved to retire as liquidators on the following basis:

1. The Federal Court Appeal is dismissed;
2. Each party is to pay their own costs of the Appeal;
3. All costs orders of the Federal Court hearing are vacated with no order as to costs, with the intent that each party pay their own costs;
4. All costs orders of the Federal Court proceedings in respect to the Examination Summons are vacated with no order as to costs, with the intent that each party pay their own costs;
5. The parties enter into a Deed whereby the parties grant mutual releases from any claims they may have against the other party;
6. Ms Amirbeaggi and I are to resign as liquidators of TROM and Merilbah and will make an application to the Court for the appointment of a liquidator nominated by HPM. HPM will pay the reasonable costs of the liquidators in respect to the application to the Court to resign as liquidators and appoint new liquidators.
7. As between HPM and TROM, in the Supreme Court (Common Proceedings), each party releases each other party of any costs incurred and any costs orders be vacated with the intent that each party pay their own costs, up until the resignation of Ms Amirbeaggi and I as liquidators of TROM and Merilbah.
8. The liquidators defer our outstanding fees and expenses behind those of the new liquidators.
9. Approximately \$200,000 is paid to the liquidators by the select investors who are party to a settlement with HPM of or about 24 June 2011. This amount approximates the cost of the disbursements (i.e. legal expenses) that have been paid by the liquidators from personal funds to date in the various disputes with HPM. I note that further legal fees of or about \$150,000 will be written off if this settlement is accepted.

Resignation of liquidators

Should any creditor object to our resignation on the terms detailed above (which may vary), please advise my office in writing by 22 June 2011 so we may ensure details of your objection are made known to the Court when it considers our resignation.

Remuneration

I propose to be remunerated on a time basis and attach particulars of the charge out rates. The proposed remuneration for TROM for the period 7 July 2008 to of or about 7 June 2011 is \$292,652.20 (\$266,047.45 plus GST) and the proposed remuneration for Merilbah for the period 7 February 2008 to of or about 7 June 2011 is \$163,832.30 (\$148,938.45 plus GST). I estimate the costs of each matter for the period 7 June 2011 to completion will be \$44,000 (\$40,000 plus GST) (excluding legal costs if required). Please refer to the attached schedule of

proposed fees for your review. The vast majority of these fees are unlikely to be paid. I refer creditors to my receipts and payments as attached.

Meeting of creditors

I have convened a meeting of creditors and your notice is enclosed. Attendance to the meeting is encouraged but not compulsory.

I enclose the following for your information:

1. Notice of meeting and agenda of first meeting of creditors (Annexure A).
2. Declaration of independence and relevant relationships and indemnities (Annexure B);
3. Appointment of proxy (Form 532) (Annexure C);
4. Proof of debt (Form 535) (Annexure D);
5. Summary of proposed services and guide to hourly rates of remuneration (Annexure E);
and
6. Receipts and payments (Annexure F).

Creditors are required to complete and return the enclosed proof of debt and appointment of proxy to this office at least 48 hours prior to the forthcoming meeting of creditors in order to be eligible to vote and participate at the meeting.

To discuss this matter, please contact Carlie Neels of my office.

Yours faithfully,
TUMUT RIVER ORCHARD MANAGEMENT LTD
MERILBAH INVESTMENTS PTY LTD



NICHOLAS CROUCH
OFFICIAL LIQUIDATOR