



ASIC

Australian Securities & Investments Commission

Our reference: ENF2014/12503
Your reference: No.186

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17 June 2014

Mr Paul Matters
C/o 10 Dixon street
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email: johnt@1earth.net

Request under the *Freedom Of Information Act 1982* for access to documents

I refer to your request under the *Freedom of Information Act 1982* (FOI Act) received by this office on 6 June 2014 in which you sought access to

Documentation of the alleged manipulation by Jack Flader Controlled Funds in April 2008 where he purchased US\$558,432.00 in Yarraman shares for the outlay of US\$6,570.00.

I am the authorised decision-maker for the purposes of section 23 of the FOI Act.

I have identified documents which come within the terms of your request. These documents are listed in the Schedule to this letter.

I note that documents filed with the US Securities and Exchange Commission (SEC) relating to Yarraman are publicly available on the SEC website (www.sec.gov).

Relevant legislation

Section 33 of the FOI Act provides:

A document is an exempt document if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to:*
 - (i) the security of the Commonwealth;*
 - (ii) the defence of the Commonwealth; or*

- (iii) *the international relations of the Commonwealth; or*
- (b) *would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.*

Section 22 of the FOI Act provides that if an agency or minister decides to refuse access to a document on the ground that it is exempt, the agency or minister must consider whether it would be reasonably practicable to prepare an edited copy of the document, which has been modified by relevant deletions, for release to the applicant. If the agency or minister decides that giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, consideration should be given to preparing an edited copy for release to the applicant. The decision maker should consider the nature and extent of the modifications required, the resources available to modify the document and whether the applicant would accept an edited copy.

Decision

I have decided to release the documents in the attached Schedule marked *Release*.

I have decided not to release the document in the attached Schedule marked *Exempt* on the grounds that the document is exempt from release by virtue of section 33 of the FOI Act, in particular paragraph 33(a)(iii), as release of the document would or could reasonably be expected to cause damage to the international relations of the Commonwealth.

Disclosure of the document would constitute a breach of confidentiality between ASIC and a foreign government or agency, which would or could reasonably be expected to cause damage to the international relations of the Commonwealth. This damage could include damage to Australia's international reputation, lessening the confidence which another country would place on the government of Australia, and damage to ongoing mutual assistance and cooperation.

Section 22

I have considered whether, pursuant to section 22 of the FOI Act, access should be granted to part of the aforementioned exempt document. For the reasons above, explaining the basis of the exemptions applied in respect to the document, I find that the document is an 'exempt document' as defined by the FOI Act. I further find that it would not be possible to make a copy of the document with such deletions that the document would not be an exempt document.

Review Rights

I provide you with the following information as required by section 26 of the FOI Act.

In the event that you are dissatisfied with the decision:

1. You may, within 30 days after the day on which you have been notified of this decision, apply in writing to ASIC for a review of my decision by another ASIC officer under section 54B of the FOI Act. This request should be addressed to me or to the Senior Manager, Administrative Law GPO Box 9827 SYDNEY or by email to foirequest@asic.gov.au
2. You may apply in writing to the Australian Information Commissioner for a review of my decision under section 54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.
3. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner - GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001 GPO Box 5218 Sydney NSW 2001.

Yours faithfully



Paula O'Regan
(Authorised decision-maker under subsection 23(1) of the FOI Act)
for the Australian Securities and Investments Commission

SCHEDULE OF DOCUMENTS

| No | Description of document | Date | Decision on access | Relevant section |
|----|------------------------------------------------|---------|--------------------|------------------|
| 1 | Internal ASIC working document No.S02097311 | undated | Release | |
| 2 | Internal ASIC working document No.S02097188 | undated | Release | |
| 3 | Document No.S01908672 | undated | Exempt | 33(a)(iii) |



SQ2097311

BACKGROUND - YARRAMAN WINERY INC

1. On 22 December 2005 Yarraman Winery Inc, a Nevada corporation ("**Yarraman**"), entered into a share purchase agreement ("**Yarraman Purchase Agreement**") with five corporations (collectively the "**Yarraman Investor Companies**") namely Sunvalley Ltd, a Seychelles corporation ("**Sunvalley**"), Leeds Holdings Ltd, a Belize corporation ("**Leeds**"), Oriental Holdings Ltd ("**Oriental**"), Glenealy International Ltd ("**Glenealy**") and Dragon Enterprises Ltd ("**Dragon**"), the latter three all being corporations domiciled in St Lucia.
2. The effect of the Yarraman Agreement was that Yarraman agreed to issue 5,253,500 restricted shares (21% of the issued stock) to be purchased by the Yarraman Investor Companies for a total of US\$2 million to be paid under separate promissory notes entered into between Yarraman and each of the Investor Companies. This equates to just over US\$0.38 per share.
3. Also on 22 December 2005 Yarraman entered into a Share Exchange Agreement ("**Yarraman Exchange Agreement**") with two Australian companies, Delta Dawn Pty Ltd ("**Delta Dawn**") and Yarraman Estate Pty Ltd ("**Yarraman Australia**").
4. The effect of the Yarraman Exchange Agreement was that Delta Dawn, the owner of 100% of the shares in Yarraman Australia, agreed to exchange its shareholding in Yarraman Australia for 15 million shares in Yarraman (60% of the issued stock") with 1.25 million shares in Yarraman (5% of the issued stock") being issued to Millhouse IAG as a finder's fee.
5. All of the Yarraman Investor Companies are Flader Controlled Companies.
6. Flader had been involved in co-ordinating both the Yarraman Purchase Agreement and the Yarraman Exchange Agreement on behalf of the Yarraman Investor Companies, and Richard was aware of this fact.
7. Between 14 December 2005 to 30 September 2006 the various share classes of the Exploration Fund purchased 6,160,261 Yarraman shares for prices ranging from US\$1.60 to US\$1.88 (average weighted price of US\$1.69) through 19 trades with 8 of the Flader Controlled Companies (including 4 of the Yarraman Investor Companies named) for a total cost of US\$10,431,725.
8. In summary, the Flader Controlled Funds purchased the Yarraman shares from the Flader Controlled Companies for prices that were, on average, about 4.5 times more than what the same shares had cost the Flader Controlled Companies.
9. Also, the Exploration Fund purchased shares in Yarraman at a cost of US\$1.75 million from Flader Controlled Companies on about 14 December 2005, even though the companies selling the shares did not hold any legal entitlement to Yarraman shares until on or after 22 December 2005.

10. Furthermore, between 30 May 2006 and 12 October 2007 there were 3 trades in Yarraman shares between the various share classes of the Exploration Fund, 3 trade purchases of Yarraman shares from the Exploration Fund by the Sierra Fund and 1 trade purchase of Yarraman shares from the Exploration Fund by the SBS Fund. The total Yarraman shares exchanged in these 7 trades was 1,153,447 shares for prices ranging from US\$2.20 to US\$2.35 (average weighted price of US\$2.34) at a total cost of \$2,697,100.
11. Over 1.2 million of the Yarraman shares still held by the Exploration Fund as at 28 October 2009 were 'restricted shares'. (S01908672).



502097188

Yarraman Winery, Inc. (YRMN)

Table 1: Purchase of YRMN stock by entities associated with the GCSL Group

| Seller | Buyer | Date of Transaction | Price paid per share (USD) | No. of shares purchased | Total Purchase Price (USD) |
|-----------------------|----------------------------|---------------------|----------------------------|-------------------------|----------------------------|
| Yarraman Winery, Inc. | Sunvalley Ltd | 22/12/2005 | 0.38 | 1,150,000 | 437,800 |
| Yarraman Winery, Inc. | Oriental Holdings Ltd | 22/12/2005 | 0.38 | 955,000 | 363,567 |
| Yarraman Winery, Inc. | Gleneasy International Ltd | 22/12/2005 | 0.38 | 1,053,950 | 401,066 |
| Yarraman Winery, Inc. | Dragon Enterprises Ltd | 22/12/2005 | 0.38 | 1,100,000 | 418,768 |
| Yarraman Winery, Inc. | Leeds Holdings Ltd | 22/12/2005 | 0.38 | 955,000 | 378,795 |
| Total | | | | 5,253,500 | 1,066,000 |

Average weighted cost price per share when purchased by GCSL Group entities (USD)

\$ 0.38

Table 2: Purchase of YRMN stock by Exploration A, B, C from entities associated with the GCSL Group

| Seller | Buyer | Date of Transaction | Price paid per share (USD) | No. of shares purchased | Total Purchase Price (USD) |
|-----------------------------|---------------|---------------------|----------------------------|-------------------------|----------------------------|
| Sunvalley Ltd | Exploration C | 14/12/2005 | 1.60 | 187,500 | 300,000 |
| Dragon Enterprises Ltd | Exploration B | 30/12/2005 | 1.60 | 906,250 | 1,450,000 |
| Gleneasy International Ltd | Exploration C | 18/01/2006 | 1.80 | 427,778 | 770,000 |
| Leeds Holdings Ltd | Exploration C | 3/02/2006 | 1.80 | 277,778 | 500,000 |
| Celebrity International Ltd | Exploration B | 8/02/2006 | 1.60 | 445,000 | 712,000 |
| Wells Holdings Ltd | Exploration B | 8/02/2006 | 1.60 | 461,250 | 738,000 |
| Oceanic Enterprises Ltd | Exploration C | 28/02/2006 | 1.80 | 472,222 | 850,000 |
| Newham Holdings Ltd | Exploration C | 4/04/2006 | 1.80 | 38,431 | 69,176 |
| Gleneasy International Ltd | Exploration C | 4/04/2006 | 1.80 | 5,692 | 10,246 |
| Gleneasy International Ltd | Exploration C | 4/04/2006 | 1.80 | 29,632 | 53,338 |
| Dragon Enterprises Ltd | Exploration C | 4/04/2006 | 1.80 | 204,025 | 367,245 |
| Celebrity International Ltd | Exploration B | 4/04/2006 | 1.80 | 402,778 | 725,000 |
| Wells Holdings Ltd | Exploration B | 4/04/2006 | 1.80 | 402,778 | 725,000 |
| Wells Holdings Ltd | Exploration B | 30/05/2006 | 1.60 | 190,275 | 304,440 |
| Oriental Holdings Ltd | Exploration B | 30/05/2006 | 1.60 | 955,000 | 1,528,000 |
| Gleneasy International Ltd | Exploration B | 1/07/2006 | 1.88 | 247,872 | 465,999 |
| Newham Holdings Ltd | Exploration A | 31/07/2006 | 1.38 | 6,000 | 11,280 |
| Wells Holdings Ltd | Exploration B | 30/09/2006 | 1.65 | 400,000 | 664,000 |
| Wells Holdings Ltd | Exploration A | 30/09/2006 | 1.88 | 100,000 | 188,000 |
| Total | | | | 6,160,261 | 10,431,725 |

Average weighted cost price per share when purchased by Exploration A, B, C (USD)

\$ 1.69

Total amount received by GCSL Group entities upon sale of YRMN stocks to funds (based on sale of 6,160,261 YRMN stocks) (USD)

\$ 10,431,725

Total amount paid by GCSL Group entities for 6,160,261 stocks based on cost price of USD\$0.38 per share (USD)

\$ 2,345,203

Assumed profit to GCSL Group entities from sale of 6,160,261 YRMN stocks to funds (USD)

\$ 8,086,522

Table 3: Purchase of YRMN stock between Offshore Funds

| Seller | Buyer | Date of Transaction | Price paid per share (USD) | No. of shares purchased | Total Purchase Price (USD) |
|---------------|------------------------------------|---------------------|----------------------------|-------------------------|----------------------------|
| Exploration C | Exploration A | 30/05/2006 | 2.35 | 166,000 | 390,100 |
| Exploration B | Exploration C | 31/07/2006 | 2.35 | 144,581 | 340,000 |
| Exploration C | Exploration B | 31/08/2006 | 2.35 | 100,000 | 235,000 |
| Exploration B | Sierra Multi Strategy Fund Ltd | 31/01/2007 | 2.35 | 400,000 | 940,000 |
| Exploration A | Sierra Multi Strategy Fund Ltd | 31/01/2007 | 2.35 | 40,000 | 94,000 |
| Exploration C | Sierra Multi Strategy Fund Ltd | 31/01/2007 | 2.35 | 212,766 | 500,000 |
| Exploration B | SBS Dynamic Opportunities Fund Ltd | 12/10/2007 | 2.20 | 90,000 | 198,000 |
| Total | | | | 1,153,447 | 2,697,100 |

Average weighted cost price per share when purchased between funds (USD)

\$ 2.34