

Brooke Hepburn-Rogers

From: Graham Marning <gmarning@hotmail.com>
Sent: Thursday, 26 August 2021 10:01 AM
To: Brooke Hepburn-Rogers
Subject: Marning. Pre-Audit. Lawyers email regarding \$1K loan. Fwd: Jump Right In Pty Ltd purchase from Hilltact Pty Limited - Property: 20/16 Quarry Street, Port Kembla | 14296 Marning

Hi Brooke,

Email trail.... Just for your records.... Legal opinion sought on this & given approval... the Loan Agreement etc referred to in email below have been requested from Access Law Leisha Presland this morning, you've been cc'ed in

Kind regards

Graham
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From: George Harriman <gharriman@accesslawgroup.com.au>
Sent: Tuesday, October 17, 2017 9:36 am
To: Graham Marning; Mary-Anne Cairns
Cc: Tom Ellicott
Subject: RE: Jump Right In Pty Ltd purchase from Hilltact Pty Limited - Property: 20/16 Quarry Street, Port Kembla | 14296 Marning

Good morning Graham & Mary-Anne,

Thank you for your emails and I assure you they will be kept in the strictest confidence.

We are satisfied with the \$1,000.00 loan. I will finalise the loan agreement and mortgage documents today, and forward the documents through for your execution.

I have **attached** a letter we received from Hanson's with respect to the metal louver screens. The Vendor proposes a reduction of the money due on settlement totalling \$922.73.

At your earliest convenience, please provide your instructions in relation to this off set.

Yours faithfully,



George Harriman | Solicitor

gharriman@accesslawgroup.com.au

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From: Graham Marning [mailto:gmarning@hotmail.com]

Sent: Friday, 13 October 2017 3:49 PM

To: George Harriman <gharriman@accesslawgroup.com.au>

Subject: Re: Jump Right In Pty Ltd purchase from Hilltact Pty Limited - Property: 20/16 Quarry Street, Port Kembla | 14296 Marning

Hi George,

On further consultation I can understand some of your concerns.

Re-iterating, we do not want to trigger double stamp duty.....we can't see the value in that .

Our circumstances have changed sine we set up the SMSF 5 years ago, and since we placed a deposit on Quarry Street Port Kembla 2 years ago. Hence the desire not to have a great borrowing..

My understanding of the ATO is this;

1. Repay at 5.75% as determined for 2016/2017 or the rate set by the Reserve Bank in the May preceding the end of the recent Financial Year.
2. Monthly repayments, of both principal and interest. Principal to be paid at \$100 a month.
3. Borrowing of \$1000 only from our personal funds.....the SMSF puts a deposit in of approximately 99.85 % , and borrows 0.15 % only.
4. Ownership then reverts to the trustee of the SMSF

We have not seen any example of a minimum borrowing amount, or a maximum "deposit" amount lodged by the SMSFCould you please provide links or attached rulings/documents if this is not the case

Additionally, if your concern is that you need direct contact from Mary-Anne confirming this please do not hesitate to call her on 0409 0888 40

Kind regards

Graham

From: Graham Marning <gmarning@hotmail.com>

Sent: Friday, 13 October 2017 1:58 PM

To: George Harriman

Subject: Re: Jump Right In Pty Ltd purchase from Hilltact Pty Limited - Property: 20/16 Quarry Street, Port Kembla | 14296 Marning

Hi George,

Thanks for your concerns but this current plan suits us financially.....and perfectly so in regards to our personal factors as well. I will put this in writing to you so your compliance requirements are satisfied.

1. Mary-Anne and I have factored in our personal relationship, our stages in our careers, the stage where she is at with a brother with terminal cancer, and our desire to restructure our careers in 2018 through to 2020.

I will add my parents reaching 80 next year as well to that mix.

2. The reason career is so important to us is because we are both approaching 'burn-out'.....This is in strictest confidence, and so I am only sending this to yourself and Tom. I want this reason kept confidential.

After this year, career flexibility will be required. And repaying large loans does not become possible. By that, I mean psychologically, physically, or financially possible. And so we will default on the loan.

Whilst the Bare Trust may protect in such a case, we do not feel we can ethically enter such an arrangement with a Lending institution.

Our funds allow us to borrow a very small amount to complete this Settlement. And we will hold to that.

3. Our other Fund amounts allow us to borrow for another property next year if we wanted.....but we won't, for the factors outlined above. So, at that point, the benefits of leveraging will kick in, which was our original intention for setting up a SMSF. We will probably see our way clear to purchase another property then in late 2018, or 2019, when family, career and personal circumstances have settled.

4. Additionally, we have an unencumbered home, that we can borrow against., and achieve some negative gearing benefits. We have been informed now from a variety of lenders that repayment obligations in a Super Fund are taken in to account when borrowing for an Investment Property or Business. We do not want a large loan now blocking these possibilities.

5. A restructuring of our career is our best financial strategy at the moment, as it will give career longevity, beyond our 60's in to our 70's.....(we are both currently 52 & 56).....This longevity, will compound our financial returns and build assets far greater than striving to borrow for this one property, and burning out in the process.

We are happy with this property's returns at this point in purchasing off the plan.

We are diversified in to shares as 25 % of our portfolio.

We want to get off the treadmill as well of contracted labour, and have a shot at a new business(es).

Most of these points have been addressed in our annual compliance requirements for our SMSF

I hope this satisfies George, or can be re-written in the legal terms required for compliance. Essentially though, our financial planning, from a variety of independent sources, has satisfied our balance sheet, our issues in the various time frames, and strategies to deal with them. This will not be a loss making investment, aside from some construction malfunction or unexpected market crash that affects the entire sector.

Thank you for doing your job thoroughly

Kindest regards

Graham

From: George Harriman <gharriman@accesslawgroup.com.au>

Sent: Wednesday, 11 October 2017 9:17 AM

To: Graham Marning; Mary-Anne Cairns

Cc: Tom Ellicott

Subject: RE: Jump Right In Pty Ltd purchase from Hilltact Pty Limited - Property: 20/16 Quarry Street, Port Kembla | 14296 Marning

Good morning Graham,

I have spoken to Tom about the loan and we are concerned that without careful planning and appropriate financial advice, your SMSF may be found non-compliant.

If you available for a face-to-face meeting this week, we will work through the compliance issues.

Please let me know at your earliest convenience.

Yours faithfully,



George Harriman | Solicitor

gharriman@accesslawgroup.com.au

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From: Graham Marning [<mailto:gmarning@hotmail.com>]

Sent: Friday, 6 October 2017 8:15 PM

To: George Harriman <gharriman@accesslawgroup.com.au>

Cc: Tom Ellicott <tellicott@accesslawgroup.com.au>; Jim Marning <Jim.Marning@crowehorwath.com.au>

Subject: Re: Jump Right In Pty Ltd purchase from Hilltact Pty Limited | 14296 Marning

Hi George,

the SMSF needs \$1000.00 (one thousand). It will agree to 5 % interest only fixed for 3 years, term of the loan 15 years.

It will seek 1% above the variable rate for the remaining 12 years.

Please email if you see any concerns

Graham

From: George Harriman <gharriman@accesslawgroup.com.au>
Sent: Friday, 6 October 2017 3:37 PM
To: Graham Marning
Cc: Tom Ellicott; Jim Marning
Subject: RE: Jump Right In Pty Ltd purchase from Hilltact Pty Limited | 14296 Marning

Hi Graham,

Thank you for getting back to me.

I have **attached** the email sent to Jim.

As discussed in that email, the maximum loan to market value ratio (LVR) for a SMSF borrowing funds is 70%.

In other words, if a property is worth \$1,000,000.00, the maximum loan a SMSF can receive is \$700,000.00.

Do you know exactly how much needs to be borrowed by your SMSF to complete the transaction?

Please call me if you want to discuss further.

Yours faithfully,



George Harriman | Solicitor

gharriman@accesslawgroup.com.au

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From: Graham Marning [<mailto:gmarning@hotmail.com>]
Sent: Friday, 6 October 2017 6:33 AM
To: George Harriman <gharriman@accesslawgroup.com.au>
Cc: Tom Ellicott <tellicott@accesslawgroup.com.au>; Jim Marning <Jim.Marning@crowehorwath.com.au>
Subject: Re: Jump Right In Pty Ltd purchase from Hilltact Pty Limited | 14296 Marning

Hi George,

Have sent an update to my brother as of last night.

I had to confess to Jim I misconstrued the idea of "personal" funds, as distinct from funds sitting in the V2 Account of our SMSF with the correspondence from Alex last February.

George, without having floated this past my brother;

There are the rules regarding maximum loans to the Bare Trust (Jump Right In PL).....which I see are the current concerns.

Are there any rules on the minimum?

Is there any chance, that, to suit my current personal and financial circumstances, that we just personally loan Jump Right In say \$1000.00 (one thousand), at say 5 % for 15 years interest only, in order to complete the transaction.

The SMSF then stumps up the balance (99 plus %), so keeping the Financial regulators onside.....

Avoiding a double stamp duty situation.

Admin wise this would then suit the ongoing balances and account keeping that ESuperfund currently demands of us...etc

The situation above would suit my needs, the admin and I hope , the legal

Graham

From: George Harriman <gharriman@accesslawgroup.com.au>
Sent: Thursday, 5 October 2017 11:50 AM
To: Graham Marning
Cc: Tom Ellicott
Subject: RE: Jump Right In Pty Ltd purchase from Hilltact Pty Limited | 14296

Dear Graham,

Thank you for your below email.

Further to our discussion yesterday, I am going to email James to clarify the loan amount, specifically with respect to the loan-to-value ratio (LVR).

Once I confirm the loan amount, I will forward you through the loan agreement and mortgage documents.

You will not need to be present in Wollongong on the day of settlement.

The earlier the money is in our account the better. Once we receive our cheque directions from the Vendor's Solicitor, we will let you know the exact amount payable.

Should you have any further questions, do not hesitate to contact me.

Yours faithfully,



George Harriman | Solicitor

gharriman@accesslawgroup.com.au

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From: Graham Marning [<mailto:gmarning@hotmail.com>]
Sent: Monday, 2 October 2017 3:50 PM
To: Interns-Business <business@accesslawgroup.com.au>
Subject: Re: Jump Right In Pty Ltd purchase from Hilltact Pty Limited | 14296

Hi George,

1. Our financial advisors are twofold, are related by blood, trusted, and receive no fees...hence independent in a SMSF environment.

Property Steven Cairns Dunedin NZ +64 211901177

Tax and Super funds tax and investment James Marning Jim.Marning@crowehorwath.com.au

Both understand that part of our strategy at present is to be positively geared for 2018 and 2019. We are hopefully moving in to other work fields, which prevents an early retirement. It was a slam dunk to avoid any borrowing on those circumstances, and we have the funds to cover outright. Not really a planning issue, more a circumstantial issue that is still effective as an investment, and gives longevity in career, and hence earnings...

I hope that explanation covers your questions. We do not have a formal financial planner trying to sell us a product. We don't want any at present, and we have enough exposure to shares elsewhere.

2. Will be with Steven Cairns in Broken Hill on the 11 th and 12 th October.....I received a previous email that said Completion should be roughly Friday the 13th of October.

Does that mean we need to be present on that day in Wollongong to sign anything.

Do cleared funds have to occur a business day before then.

What is the implication of that in terms of monies and our physical presence.

Many thanks

Graham

From: Interns-Business <business@accesslawgroup.com.au>
Sent: Thursday, 28 September 2017 3:59 PM
To: gmarning@hotmail.com; maryanne.cairns@gmail.com
Cc: Tom Ellicott; George Harriman
Subject: RE: Jump Right In Pty Ltd purchase from Hilltact Pty Limited | 14296

On behalf of George Harriman

Good afternoon Graham and Mary-Anne,

I confirm that the balcony louvre screens are included in the exchanged Contract. I am in the process of drafting a letter on a without prejudice basis to deal with the issue.

We must exercise some caution with respect to inserting a clause under the contract as it may expose us to a situation when the vendor may have a right to bring the contract to our end.

I have a quick couple questions for your financial planner regarding your SMSF lending. Could you please send through their contact details at your earliest convenience.

We will notify you once the Vendor's solicitor serves us with the Final Occupation Certificate.

We look forward to hearing from you.

Kind regards,



George Harriman | Solicitor

gharriman@accesslawgroup.com.au

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