

ENFORCEABLE UNDERTAKING

Australian Securities and Investments Commission Act 2001

Section 93AA

The commitments in this undertaking are offered to the Australian Securities and Investments Commission (ASIC) by:

Mr Christopher Chandran
c/- Moore Stephens Sydney
Level 7, 20 Hunter Street
Sydney NSW 2000

1. Definitions

In addition to terms defined elsewhere in this undertaking, the following definitions are used:

ASIC Act means the *Australian Securities and Investments Commission Act 2001* (Cth);

Corporations Act means the *Corporations Act 2001* (Cth).

2. ASIC's Role

- 2.1 Under section 1 of the *ASIC Act*, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.
- 2.2 ASIC is also responsible for the registration of company auditors. Registered auditors must satisfy specified educational and practical experience standards, and in forming an opinion about whether financial statements audited by them comply with Australian Accounting Standards and present a true and fair view, must comply with Australian Auditing Standards and Professional Conduct Standards.
- 2.2 ASIC is empowered to bring disciplinary proceedings in the Companies Auditors and Liquidators Disciplinary Board ("CALDB") against registered company auditors who have failed to adequately and properly carry out the duties of an auditor.

3. Role of Mr Chandran

- 3.1 Christopher Chandran is a registered company auditor (Registration No. 303100), having first obtained registration on 16 August 2006 pursuant to section 1279 of the *Corporations Act*.
- 3.2 Mr Chandran is currently a partner in the accounting practice Moore Stephens Sydney ("MSS"), which is an independent member of the Moore Stephens Australia network.
- 3.3 The principal place of practice of MSS is at Level 7, 20 Hunter Street Sydney NSW 2000.
- 3.4 Section 307A of the *Corporations Act* provides that if an individual auditor conducts an audit of the financial report for a financial year, the individual auditor must ensure that the audit is conducted in accordance with Australian Auditing Standards.
- 3.5 Mr Chandran was, for the period ending 30 June 2006, the lead auditor of Estate Property Group Limited (ACN 089 187 548) ("EPG") and was the signing partner of the unqualified audit opinion in respect of EPG's Financial Report for the year ended 30 June 2006 dated 29 November 2006 ("the 2006 Financial Report").

4. EPG background

- 4.1 EPG was incorporated on 23 August 1999. The company was previously known as Castle Investment Company Limited and changed its name to EPG on 12 September 2006.
- 4.2 At 30 June 2006, EPG was the parent entity of 19 subsidiary companies including Australian Capital Reserve Limited ("ACR"), which acted as the group's fund raising vehicle. Subsidiaries of EPG were engaged in various property developments.
- 4.3 EPG's principal activity for the financial year ending 30 June 2006 was the investment in wholly owned subsidiaries and the provision of vertically integrated real estate activities.

5. ASIC's concerns

- 5.1 ASIC conducted an investigation under section 13(1) of the *ASIC Act* in relation to the audit of EPG and its subsidiaries for the financial years ending 2005 and 2006.
- 5.2 ASIC has concerns that Mr Chandran, as lead auditor of the audit of EPG's 2006 Financial Report, failed to ensure that the audit of the 2006 Financial Report was conducted in accordance with Australian Auditing Standards as required by section 307A of the *Corporations Act*. Specifically, Mr Chandran failed to

carry out or perform adequately and properly the duties of an auditor within the meaning of s1292(1)(d)(i) of the *Corporations Act* in relation to the audit of EPG's 2006 Financial Report, in that as lead auditor, he failed:

5.2.1 In respect of audit work completed relating to valuations of investment property performed by an external valuer:

- a) to ensure that the requirements of AUS 606 Using the Work of an Expert were met when the audit relied upon the valuations;
- b) in the alternative to paragraph a), to ensure documentation of matters which were required to support the audit opinion and evidence that the audit was carried out in accordance with Australian Auditing Standards as required by AUS 208 Audit Documentation, paragraphs .02, .05 and/or .06.

5.2.2 In respect of work performed relating to the reclassification of properties from inventory to investment property, he failed:

- a) in the absence of resolving with management the matter of the reclassification of particular properties during the financial year ending 30 June 2006 not being in accordance with AASB 140 Investment Property, paragraph 57, to ensure that a qualified audit opinion was issued in accordance with AUS 702 The Audit Report on a General Purpose Financial Report paragraph .45 on account that the reclassification of those properties from inventory to investment property were not made in accordance with the requirements of AASB 140, paragraph 57; or
- b) in the alternative to paragraph a) to ensure documentation of matters which were required to support the audit opinion and evidence that the audit was carried out in accordance with Australian Auditing Standards as required by AUS 208 Audit Documentation, paragraphs .02, .05 and/or .06.

5.2.3 In respect of audit work completed relating to the going concern basis on which the 2006 Financial Report was prepared, he failed:

- a) to ensure compliance with AUS 708 Going Concern, paragraphs .10 and .20, in respect of obtaining sufficient appropriate audit evidence that the going concern basis, on which the EPG 2006 Financial Report was prepared was appropriate; and/or
- b) to ensure that sufficient appropriate audit evidence was obtained as required by AUS 502 Audit Evidence, paragraph .02; and/or
- c) in the event that there existed alleged significant uncertainty regarding the appropriateness of the Going Concern basis as at 30 June 2006 which was not disclosed in EPG's 2006 Financial Report and the 2006 Financial Report did not adequately describe the matters noted in AUS

708.32(b)(i) and (ii), to ensure that an "except for" opinion or an adverse opinion was expressed (under AUS 708.33) on the basis of lack of disclosure in accordance with AUS 702.

- d) In the alternative, in the event that consideration of mitigating factors had a significant effect upon the auditor in forming the opinion that the going concern basis was appropriate, to ensure that a qualified opinion was expressed on the basis of the lack of disclosure in the financial report of matters such as:
- i) the principal conditions which initially caused the auditor to question the going concern basis, including as appropriate, management's evaluation of their significance and possible effects; and
 - ii) management plans and other mitigating factors including as appropriate, relevant prospective financial information;
- in accordance with AUS 708.30 and AUS 702; or
- e) in the alternative to paragraphs a) to d), to ensure documentation of matters which were required to support the audit opinion and evidence that the audit was carried out in accordance with Australian Auditing Standards as required by AUS 208 Audit Documentation, paragraphs .02, .05 and/or .06.

6. Acknowledgement of concerns

- 6.1 Whilst Mr Chandran disagrees with ASIC's concerns, he acknowledges that ASIC has those concerns and has offered, and ASIC has agreed to accept, the commitments in this enforceable undertaking ("Undertaking") as an alternative to ASIC making an application to CALDB for an order under section 1292 the *Corporations Act*.

7. Undertakings

- 7.1 Under section 93AA of the *ASIC Act*, Mr Chandran has offered, and ASIC has agreed to accept the following undertakings:
- (a) that for a period of 12 months from the date of acceptance of this Undertaking ("period of suspension"), he will not perform any duty or function which requires registration as an auditor under the *Corporations Act*;
 - (b) that after the conclusion of the suspension period referred to in paragraph 7.1(a) in respect of his next five audits which require registration as an auditor under the *Corporations Act* the audit work and conclusions will be submitted by him for review by another registered company auditor approved in advance by ASIC, who is to provide to ASIC a statement in

writing whether in that person's opinion the five audits in question have been conducted in all material respects in accordance with all applicable Australian Auditing Standards and the MSS Audit Manual effective as at the date of any such audit;

- (c) to participate in an additional fifteen hours Continuing Professional Education (CPE) on audit related matters during the period of suspension in addition to the mandatory CPE requirements imposed upon him as a consequence of him being a member of the Institute of Chartered Accountants in Australia; and
- (d) to provide all documents and information requested by ASIC from time to time for the purpose of assessing his compliance with the undertakings in paragraphs (a) to (c) within 7 days of receiving the request.

8. Acknowledgements

8.1 Mr Chandran acknowledges that ASIC:

- (a) may issue a media release on execution of this Undertaking referring to its terms and to the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this Undertaking; and
- (c) will make this Undertaking available for public inspection.

8.2 Further, Mr Chandran acknowledges that:

- (a) ASIC's acceptance of this Undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil order in relation to any contravention not the subject of ASIC's concerns in this enforceable undertaking or arising from future conduct; and
- (b) this Undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this undertaking or arising from future conduct.

8.3 Mr Chandran acknowledges that this Undertaking has no operative force until accepted by ASIC, and Mr Chandran and ASIC acknowledge that the date of the Undertaking is the date on which it is accepted by ASIC.

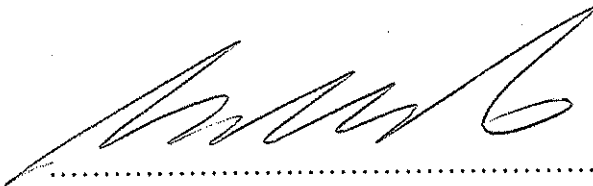
8.4 Any written notification to ASIC pursuant to this undertaking is to be provided to the Senior Executive Leader, Accountants and Auditors Team, ASIC, Level 18, No. 1 Martin Place Sydney NSW 2000.



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Christopher Chandran

Dated: 22..... December 2009

Accepted by the Australian Securities and Investments Commission pursuant to section 93AA of the *Australian Securities and Investments Commission Act 2001* (Cth) by its duly authorised delegate:



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Glen Unicomb

Delegate of Australian Securities and Investments Commission

Dated: 23..... December 2009