FOI 055-2022

ASIC
Australian Securities & Investments Commission

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Our Reference: MRI2001/3002

29 July 2002

BY FACSIMILE

Mr Albert Wong and Mr Dean Gallegos
Directors
Barton Capital Securities Pty Ltd
Level 9
99 William Street
Melbourne, Victoria 3000

Dear Mr Wong and Mr Gallegos

Enforceable Undertaking dated 9 May 2002 entered into by Barton Capital Securities Pty Limited ("Enforceable Undertaking")

I refer to your letter dated 22 July 2002 seeking an exemption from the Australian Securities and Investments Commission ("**ASIC**") in relation to paragraphs 3.2 to 3.5 of the Enforceable Undertaking.

1. Paragraphs 3.2 to 3.5 of the Enforceable Undertaking

1.1 ASIC has considered BCS' request to be exempted from the necessity to retain a compliance officer given BCS currently only has four proper authority holders, all of which will be cancelled no later than 16 August 2002.

1.2 ASIC will not enforce compliance by BCS with paragraphs 3.2 to 3.5 of the Enforceable Undertaking from 9 August 2002 to 16 August 2002, but only for so long as BCS issues no further proper authorities.

1.3 From 17 August 2002, ASIC will not enforce compliance by BCS with paragraphs 3.2 to 3.5 of the Enforceable Undertaking, but only for so long as BCS has no proper authority holders.

1.4 In the event that BCS applies for and is granted an Australian Financial Services Licence, ASIC will require compliance with paragraphs 3.2 to 3.5 of the Enforceable Undertaking. BCS may, of course, wish to seek relief from the Enforceable Undertaking at that time.

2. BCS' remaining obligations under the Enforceable Undertaking

2.1 BCS has represented to ASIC that: "As BCS will effectively cease to carry on a securities business ... on 9 August 2002, it is currently unclear as to the obligations of BCS under the enforceable undertaking".

2.2 It is ASIC's position that until such time as BCS does not hold a dealers licence or an Australian Financial Services Licence, BCS is obliged to comply with its obligations under the Enforceable Undertaking.

2.3 I trust this clarifies BCS' understanding of its obligations under the Enforceable Undertaking.

Yours faithfully

[redacted]

Nicole McCutcheon
Senior Lawyer
Enforcement (Financial Services)

Copy to: Doris Pettinella