

Ref: 340-000 / #79980

This undertaking is offered to the Securities Commission for acceptance under section 69J of the Securities Act 1978 by:

The Gables Limited ("TGL")

18 Woollcombe Street
Timaru

And by

Combined Financial Services Limited ("CFS")

C/- Macfarlane Dougall Stringer
Level 5
86 Gloucester Street
Christchurch

And by

Aoraki Commercial Property Limited ("ACP")

C/- Macfarlane Dougall Stringer
Level 5
86 Gloucester Street
Christchurch

And by

Rhys David Morgan ("Mr Morgan")

86 Mckenzie Street
Geraldine

And by

Lorraine Te Atairehia Morgan ("Ms Morgan")

86 Mckenzie Street
Geraldine

And by

Neville Ian Cant ("Mr Cant")

11 Cardiff Street
Timaru

Background


1. TGL is a company registered under the Companies Act 1993. It was incorporated on 6 December 2005. TGL intended to raise finance, by way of an offer of equity securities, in order to acquire and then manage a commercial investment property. Mr Morgan is the sole director and shareholder of TGL.

2. CFS is a company registered under the Companies Act 1993. It was incorporated on 27 February 1998. CFS is a financial service provider and its sole director is Mr Cant. CFS advises its clients on various investments schemes that are presented to it. CFS was a promoter of the offer by TGL.
3. ACP is a company registered under the Companies Act 1993. It was incorporated on 14 November 2005. Mr Morgan and Ms Morgan are the directors of ACP. ACP was also a promoter of the offer by TGL.
4. In February 2006 TGL offered equity securities, in the form of ordinary shares, to the public by way of an "offer document". TGL's intention was to issue ordinary shares to investors and in return use the subscription monies to:
 - (a) along with mortgage finance, purchase the land and buildings at 11 Donaldson Drive, Coatesville, North Shore, Auckland ("the Property"); and
 - (b) acquire an unascertained shareholding in Via NZ Limited, the intended tenant for the Property (together referred to as "the offer").
5. On 6 March 2006 CFS sent a letter to a number of its clients. The letter referred to three investment schemes offered by unrelated parties and to promotional documents relating to the investment schemes. In particular the letter had referred to TGL's offer and TGL's "offer document".
6. At the time the offer was made, TGL, CFS and ACP believed that the offer was made only to "*eligible persons*" pursuant to section 5(2CB) of the Securities Act 1978 ("the Act") and therefore nothing in Part II of the Act applied to TGL's offer. The advertisement of the offer resulted in TGL receipting subscriptions from two subscribers to an aggregated amount of \$250,000. Other subscriptions were received but unreceipted by TGL.
7. The Securities Commission ("the Commission") had a number of concerns with the offer made by TGL and the advertisement of the offer by CFS and ACP. The Commission formed the view that the offer did not comply with section 33(1) of the Act in that it was not made in or accompanied by an investment statement that complied with the Act and the Securities Regulations 1983 ("Regulations"), nor was it made in an authorised advertisement, nor in or accompanied by a registered prospectus that complied with the Act and Regulations.
8. On 5 April 2006 CFS received a letter from the Commission expressing its concern that TGL's offer of securities may have been offered to the public in contravention to the Act. In particular the Commission expressed its concern that:
 - (a) there was no registered prospectus for the equity securities being offered by TGL; and
 - (b) there was no investment statement relating to the securities being offered by TGL and that complies with the Act and Regulations.
9. Upon receiving notice of the Commission's concerns, both CFS and ACP took immediate steps to obtain appropriate legal advice. CFS advised the Commission that in addition CFS, ACP had also acted as a promoter of TGL's offer. Both CFS and ACP had advertised the offer to members of the public.

10. Following receipt of legal advice, both CFS and ACP acknowledged that the offer was made in contravention of section 33(1) of the Act and any advertisements to the public relating to the offer was also made in contravention of the Act. CFS later confirmed that as a result of obtaining legal advice TGL has withdrawn its offer.
11. CFS and ACP both:
 - (a) acknowledged the concerns raised by the Commission;
 - (b) refunded all money received in relation to the offer to investors; and
 - (c) notified their intention to fully co-operate with the Commission.
12. As at the date of this undertaking all subscription money has been returned to subscribers and the offer has been withdrawn.
13. TGL, CFS and ACP wish to remedy the situation and ensure that no similar events occur. TGL, CFS and ACP have offered the undertakings set out below. The Commission has agreed to accept these undertakings under section 69J of the Act.

Undertakings

Undertakings relating to offer by TGL

14. TGL and Mr Morgan undertake not to allot any securities in relation to the offer and will not distribute, or make any further use of the "offer document" referred in paragraph 7₄ and will prohibit any of TGL's employees or agents from making use of this document. 
15. TGL undertake (to the extent it has not already done so) to forthwith return all subscription monies received in relation to the offer to subscribers together with interest in terms of section 37 and 37A of the Act (as applicable), whether received prior to or after the giving of this undertaking.

General undertakings

16. These "general undertakings" are given by:
 - (a) TGL, CFS, ACP; and
 - (b) Mr Morgan both in his capacity as a director of TGL and ACP, and in his individual capacity in relation to any offer of securities to the public in which he is currently, or may in the future, be involved as an issuer or a director of an issuer or a promoter; and
 - (c) Ms Morgan in her capacity as a director of ACP, and in her individual capacity in relation to any offer of securities to the public in which she is currently, or may in the future, be involved as an issuer or a director of an issuer or a promoter; and
 - (d) Mr Cant in his capacity as the director of CFS, and in his individual capacity in relation to any offer of securities to the public in which he is currently, or may in the future, be involved as an issuer or a director of an issuer or a promoter (together known as "the Parties").

17. The Parties will not offer securities to the public for subscription, other than in an investment statement, registered prospectus or authorised advertisement that complies with the Act and the Regulations, or in accordance with any applicable exemption contained in the Act or granted by the Commission.
18. The Parties will ensure that employees and external marketing advisers and agents who prepare advertising for any offers of securities to the public for subscription that are made by the Parties are aware of the requirements relating to offers of securities under securities laws.
19. The Parties will not distribute, or permit any person to distribute, any document or other material containing or referring to an offer of securities to the public unless it has been prepared or reviewed by professional advisers experienced in securities law.
20. Without limiting paragraph 19 above, the Parties will take all reasonable steps to ensure that no agent distributes or permits the distribution of any document or other material containing or referring to an offer of securities to the public unless it has been prepared or reviewed by professional advisers experienced in securities law.

Acknowledgements

21. The Undertaking Parties acknowledge that the Commission:
 - (a) may issue a media release referring to the undertaking and to all of the concerns of the Commission which led to the undertaking being executed;
 - (b) may from time to time publicly refer to the undertaking; and
 - (c) will make this undertaking available for public inspection.
22. The Undertaking Parties acknowledge that this undertaking does not derogate from the rights and remedies available to the Commission or to any other person or entity arising from the conduct described in the undertaking.
23. The Undertaking Parties acknowledge that the Commission's acceptance of an enforceable undertaking under section 69J of the Act does not affect the Commission's power to investigate future conduct of any person, to take any action or exercise any power under the Act, or any other legislation, or to refer any matter for criminal prosecution or seek any civil penalties.

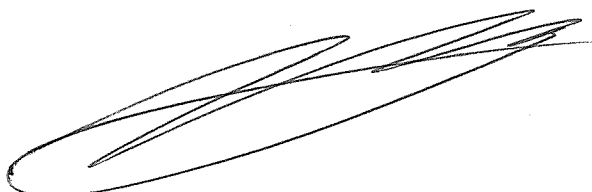
Signed for and on behalf of **The Gables Limited**
by its duly authorised officer:

Signed by :



Signed for and on behalf of **Combined Financial Services Limited**
by its duly authorised officer:

Signed by :




Signed for and on behalf of **Aoraki Commercial Property Limited**
By its duly authorised officer:

Signed by : 


Signed by **Rhys David Morgan**

Signed by : 

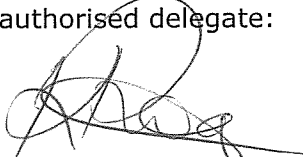
Signed by **Lorraine Te Atairehia Morgan**

Signed by : 

Signed by **Neville Ian Cant**

Signed by : 

Accepted by the **Securities Commission**
pursuant to section 69J of the Securities Act 1978
by its authorised delegate:


Kathryn A. Ragen
Director, Primary Markets

Dated this 8th day of June 2006.

31 May 2006

The Securities Commission
P O Box 1179
WELLINGTON

Attention: David Tsai

Delivery: By Email: david.tsai@sec-com.govt.nz

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BARRISTERS & SOLICITORS

Dear David

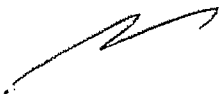
CFS - AORAKI - THE GABLES

We refer to our telephone discussion of today. We confirm on behalf of all parties providing the enforceable undertakings that we consent to Paragraph 14 of the undertaking to be amended to alter the reference within that paragraph from Paragraph 7 to Paragraph 4.

Should you have any further queries please advise.

Yours faithfully

MDS LAW



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