

The LSLC Shell

Issue 1 Vol 3 Summer 2008



Lynda's Corner:

Welcome to our Summer 08 Edition of the LSLC Shell, our first for the New Year.

I start off by welcoming our newest recruit at LSLC, Kathryn Segrave. Kathryn has already proven herself to be not only an excellent personal assistant to me but very talented in relation to legal matters. Kathryn comes from a Real Estate background and is soon to complete her Advanced Diploma in Business (Legal Practice), when she will officially be qualified as a para-legal. Kathryn is looking forward to assisting us to expand LSLC's property law services which will help me to focus on what I love best - business!

This edition's feature article is on Exclusive Dealing, something we have all heard of but don't know much about. It does not only affect franchisors, it could also affect any business owner running a competition or special offer as well.

I am really looking forward to taking on 2008 with a vengeance and continuing to help you all grow your businesses into local and global successes. Over summer I climbed Mt Bogong (did it in 10 hours!) which got me all motivated and inspired. Other inspirations which got me ready for an excellent 2008 included taking fake species on the turf at the MCG before the Police Concert and chilling with the hippies watching John Butler at the Chill Island Festival on Phillip Island recently. Balance between enjoying life and driving business success - that is my resolution for 2008. Make it yours too.

Cheers.Lynda ☺



LSLC News:

LSLC Xmas 2007 Top 10

In keeping with our tradition of rewarding our top clients as part of our client loyalty program, in December 2007, the following clients received a magnificent Sun in the City Hamper which aimed to bring some sunshine to the office for those slaving in front of their laptops. Particular notice was given to Lynda's very daggy taste in music when strains of Dolly Parton, Blondie and the Hooters were heard on the LSLC Summer Tunes CD.

We thank our Top 10 in particular but also all of our other loyal clients for their continued support and faith in the quality of our services.

Our X-Mas 2007 "Top 10" (in no particular order) were:

1. **Endota Spa** - a permanent fixture of the Top 10, Endota keep growing and now have almost 30 day spas in their national franchise network.
2. **Drag Tag** - with their unique driver assimilation system that allows you to drive your own car really fast in a safe virtual world, Drag Tag are now taking on the world through licensing and have recently been at a major automotive expo in Dubai.
3. **Hallmark** - LSLC have been supporting the Hallmark Counter Division and the Hallmark Alliance Program (which is a loyalty program for retailers stocking Hallmark) with all of its competition/promotion legals.

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LSLC News Contd:

4. **Arrive On Time** - are an appliance repair mobile franchise now franchising nationally
5. **Pole Divas** - a pole dancing school franchise also franchising nationally
6. **Beautiful Me** - designers, wholesalers and retailers of "Vigorella" nylon body wear. If you like Metallicus, you will LOVE Vigorella!
7. **VGB Financial Principles** - financial advisors and also top referrers of work to LSLC ☺
8. **Nortan** - Airconditioning and Heating installers who this year we helped with Employment Agreements as they continued to expand
9. **Mederx** - a new business which will be distributing medical equipment
10. **Nicolangela** - fashion designers and retailers now making their mark overseas - you would have seen their dresses everywhere at Spring Carnival.

Introducing "Webinars" on www.smartcompany.com.au

Following on from Lynda's successful debut as a blogger on www.smartcompany.com.au, Lynda has been invited to present a webinar - basically an interactive seminar over the web that you don't even have to leave your seat for. Gone are the days of getting a ticket cos you parked your car in the 15 minute zone for a 2 hour conference! Lynda's first webinar will be on export and we will keep you informed on the date and time if you or any colleagues want to book in. Go to www.smartcompany.com.au for more details.

Workchoices to Be Abolished?

The Commonwealth Government introduced a Bill into Parliament on 14 February 2008 in relation to Workchoice Relations laws and has initiated a Public Consultation process to discuss the 10 National Employment Standards (NES). If the Bill is passed, the 10 NES will not come into effect until 1 January 2010 and will apply to all employees that are employed by constitutional corporations and others in the Federal system.

The 10 National Employment Standards that are under discussion relate to:

- Normal hours of work
- Parental Leave entitlements
- Flexible work for parents who have children under school age
- Annual Leave entitlements
- Personal, carers and compassionate leave entitlements
- Community Service Leave entitlements (ie. employees who have been called up for jury service and employees who volunteer for emergency service duties eg. SES, CFA, etc.)
- Public Holidays
- Information in the Workplace
- Notice on Termination and Redundancy entitlements
- Long Service Leave entitlements

The NES together with new "modern awards to be introduced by the agreement, will form the bases of the new safety net for employees in Australia. Those of you who currently have AWA's, Collective Agreements or other agreements in place under Workchoices may continue to use these until the new laws have been enacted and taken effect.

If you would like additional information on these changes to the Workplace Relations regulations, please contact Lynda Slavinskis.



Client Profile : - Vickery Galvin Brittain Financial Services

LSLC is delighted to have established a strategic business relationship with a boutique financial planning company, VickeryGalvinBrittain Financial Services (VGB) and to have VGB as one of our best clients.

VGB offers complete financial planning services to its clients, specialising in retirement planning, investment / wealth creation and wealth protection strategies with a strong emphasis on providing personal service at all times.

Company Director, Jon Brittain says: -

“Our association with LSLC completes our service offering to clients. We are now able to confidently refer our clients to Lynda for specialist advice in all matters relating to the legal aspects of Estate Planning.

It also compliments the finance arm of our recently established Mortgage Broking business for clients who need to structure the ownership of property in certain ways.

In any business relationship it is of paramount importance that clients feel comfortable and confident when obtaining advice. The feedback we have received from clients who have dealt with Lynda has been fantastic.

VGB has also used LSLC extensively as our in-house legal consultant. Purchase agreements, shareholder agreements and executive employment agreements have all been delivered to us with a focus towards a common sense, practical and commercial solution for all parties.”

To contact VGB call Jon on 9805 5002 for your financial planning needs, or email:
brittain@renumerator.com.au.



What's On

Upcoming Events

Employing People

9am - 12.30pm Wednesday 12 March
Provider: Maroondah City Council

Selling your idea (Licensing)

1pm - 2pm Monday 7 April
Provider: INNOVIC Cost: FREE

Developing Your Idea

12noon - 2pm Wednesday 16 April
Provider: INNOVIC Cost: FREE

Financial Controls for Small Business

9am - 11am Tuesday May 13
Provider: Maroondah City Council

Buying a Franchise Workshop

6pm - 8pm Tuesday 20 May
Provider: CAE Cost: \$30.00

Australia-China Business Week 2008

19-23 May

Grants and Finance for your Business Venture

1pm - 2pm Wednesday 21 May
Provider: INNOVIC Cost: FREE

Patents and Intellectual Property

1pm - 2pm Wednesday 18 June
Provider: INNOVIC Cost: FREE

For Bookings and Information on these Events, contact:

All events at Innovation @257,
Level 1, 257 Collins Street Melbourne
For bookings go to www.innovic.com.au
or call 9650 4733

All events at CAE
Building B - 253 Flinders Lane, Melbourne
For bookings go to www.cae.edu.au
or call 9652 0611

All events offered by Maroondah City Council
For bookings go to www.bizmaroondah.com.au
or call 9874 5733

For information relating to Australia-China
Business Week 2008 events,
Call: 1300 360 005 or go to
www.businessweekoz.com.au.



Feature Article: Exclusive Dealing and Third Line Forcing

Many of our clients would have heard of the term Exclusive Dealing and Third Line Forcing but are unsure of what these terms mean exactly. Take these scenarios for example:

- A Bakery Franchisor forces its Franchisees to purchase flour from one supplier.
- A Retailer offers a discount on products to customers who have taken out insurance from a certain health insurance provider and not to other customers.

Both these situations amount to Exclusive Dealing and more particularly Third Line Forcing as they involve third party suppliers. This behaviour is against the law unless an exemption is obtained from the ACCC (Australian Consumer and Competition Commission). In this article we give you a snapshot in Q&A style on Section 47 of the Trade Practices Act 1974 which prohibits Exclusive Dealing.

Question: *What is Exclusive Dealing?*

Answer:

When one trader imposes restrictions on another's freedom to choose with whom, in what or where it deals.

In most circumstances it is not permitted at all. In other circumstances, it is permitted in order to avoid substantially lessening competition.

Question: *What is Third Line Forcing?*

Answer:

Third line forcing is when a party is compelled to purchase goods or services from a specific supplier, or when the supplier refuses to supply goods or services to a specific company because it refuses to agree the condition that it be their sole supplier.

These actions are prohibited under the Trade Practices Act 1974.

Question: *Are there other forms of Exclusive Dealing Conduct?*

Answer:

Yes there are a few other forms of Exclusive Dealing Conduct. These are:

The supply of Goods & Services, or supply of goods and services at a discount, on condition that the buyer:

- Will not acquire, or will limit the acquisition of goods or services from a competitor of the supplier.
- Will not re-supply, or will re-supply only to a limited extent, goods acquired from a competitor of the supplier.
- Will not re-supply the goods and services to others, or will re-supply only to a limited extent, the goods and services to particular services, classes of persons or in particular places.

In addition, a supplier cannot refuse to supply goods & services just because the intended buyer will not agree to these conditions.

Question: *Are there penalties for Exclusive Dealing Conduct?*

Answer:

Yes, there are various penalties available for a breach of Exclusive Dealing Conduct under the Trade Practices Act 1974.

Question: *Is there any exemption from ACCC available for Exclusive Dealing Conduct?*

Answer:

Parties have the option to obtain exemptions from the ACCC if the Exclusive Dealing Conduct will provide public benefit that outweighs any anti-competitive detriment.

Immunity obtained for third line forcing notifications will only exist for the business which lodged the request. Any business which later joins a third line forcing arrangement already protected will need to lodge a separate request to the ACCC.

Question: *What does Public Benefits include?*

Answer:

Some items considered under Public Benefits include whether the conduct:

- Fosters business efficiency?
- Improves product quality?
- Promotes competition in relevant markets?

Suggested reading:

For further information on Exclusive Dealing Conduct and third line forcing, we recommend reading the ACCC's January 2007 publication: "*Guide to Exclusive Dealing notifications*".

For further information or legal advice on Exclusive Dealing Conduct and Third Line Forcing, please contact Lynda Slavinskis.

Note: Sections of this article have been taken from "Guide to Exclusive Dealing notifications".