

## CIRCULAR TO EMPLOYEES

13 December 2012

Dear Sir / Madam

**R.L. Buller & Son Pty Limited (Trading as Buller Wines)**  
**(Administrators Appointed)**  
**ACN 004 348 207**  
**("the Company")**

Salvatore Algeri and I were appointed Joint and Several Administrators of the Company on 13 December 2012 pursuant to Section 436A of the Corporations Act 2001 ("the Act").

We are currently examining the trading position of the Company with a view to assessing its future viability.

Please note that employees of the Company or related persons have a statutory priority of payment in respect of outstanding entitlements such as wages, superannuation, holiday pay and long service leave. Employees who are directors are otherwise 'excluded employees' for the purposes of Section 556 of the Act have rights which are limited by the operation of that section.

Please complete the enclosed statement of claim form detailing your outstanding entitlements at the date of our appointment at your earliest convenience and return same to our office.

As a consequence of and from the date of the appointment, the Administrators will take control of the management and operations of the Company and of its assets in accordance with the Act.

Without the express written authority of the Administrator, you must not, nor must you permit anyone else to:

1. Place any orders for goods or services.
2. Accept delivery of any goods or services.
3. Supply any services to customers or dispatch any goods to customers.
4. Enter into any commitments with suppliers or customers.
5. Make any compromise or arrangement with any debtor or creditor of the Company, including the allowance of any set-offs.
6. Incur any debts or liabilities in the name of the Company or pledge its assets.
7. Return any goods to suppliers.
8. Make any payments.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/au/about](http://www.deloitte.com/au/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

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9. Remove any assets of the Company from the Company's custody or control.
10. Make or modify any entries on the Personal Property Securities Register.

All monies received are to be forwarded to Deloitte Touche Tohmatsu or paid into a bank account styled "R.L. Buller & Son Pty Limited (Administrators Appointed)".

Every invoice, order for goods, business letter, or similar document must have the words (Administrators Appointed) immediately following the name of the Company.

All assets of the Company must be secured against theft.

All known breaches of the law or regulations (eg occupational health & safety, environmental, hygiene, fire, etc) are to be notified to us in writing immediately.

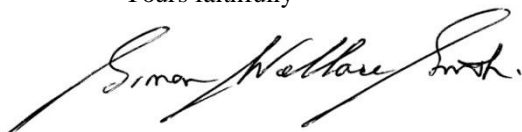
We are required to convene a first meeting of creditors within 8 business days following our appointment. Accordingly, I enclose the following:

1. Notice of Meeting of Creditors to be held on **21 December 2012 at 10.30 am** (the "first meeting").
2. Employee Statement of Claim for Voting Purposes.
3. Instrument of Proxy.
4. A Declaration of Independence / Indemnities & Relevant Relationships for the purposes of Section 436DA of the Act.
5. ASIC/IPA Information Sheet.
6. Remuneration Proposal.

The effect of our appointment is to place a moratorium on the payment of unsecured creditors' accounts in relation to trading and other debts incurred up to the date of our appointment, until creditors make a decision about the Company's future. That decision will be made at a second meeting of creditors, to be held within 30 business days following our appointment. Creditors will receive notice of that meeting in due course.

If you have any further queries in relation to this or any other matter concerning the administration, please contact David Phua of my office on (03) 9671 7060 or email [daphua@deloitte.com.au](mailto:daphua@deloitte.com.au) .

Yours faithfully



**Simon Wallace-Smith**  
Joint and Several Administrator  
Encl.

CORPORATIONS ACT 2001  
*Section 436E*

NOTICE OF FIRST MEETING OF  
CREDITORS OF COMPANY UNDER ADMINISTRATION

R.L. BULLER & SON PTY LIMITED (TRADING AS BULLER WINES)  
(ADMINISTRATORS APPOINTED)  
ACN 004 348 207  
("the Company")

1. On 13 December 2012, the Company under section 436A appointed Simon Wallace-Smith and Salvatore Algeri of Deloitte Touche Tohmatsu, 550 Bourke Street, MELBOURNE VIC 3000 as the Joint and Several Administrators of the Company.
2. Notice is now given that a meeting of the creditors of the Company will be held at the offices of Deloitte Touche Tohmatsu, Level 11 550 Bourke Street, Melbourne VIC 3000 on **Friday 21 December 2012 at 10.30 am**.
3. The purpose of the meeting is to determine:
  - a. whether to appoint a committee of creditors; and
  - b. if so, who are to be the committee's members.
4. At the meeting, creditors may also, by resolution:
  - a. remove the Administrator from office; and
  - b. appoint someone else as Administrator of the Company.
5. Attendance at this meeting is not compulsory. Creditors may attend and vote in person, by proxy or by attorney. The appointment of a proxy must be made in accordance with Form 532.

A specific proxy can be lodged showing approval or rejection of each resolution. Proxy forms or facsimiles thereof must be lodged with our office **by 12.00 pm on the day prior to the meeting**. Where a facsimile copy of a proxy is sent, the original must be lodged with my office within 72 hours after receipt of the facsimile. An attorney of the creditor must show the instrument by which he or she is appointed to the Chairman of the meeting, prior to the commencement of the meeting.

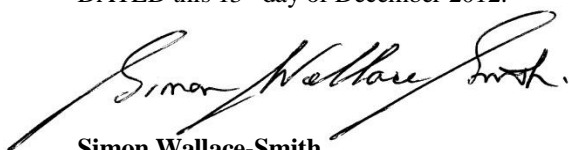
Telephone conference facilities will be available at the meeting.

Please email [daphua@deloitte.com.au](mailto:daphua@deloitte.com.au) to obtain the call details.

Please note under Corporations Regulations 5.16.13A:

- (a) A person, or the proxy or attorney of a person, who wishes to participate in the meeting by telephone must give to the administrator, not later than the second-last working day before the day on which the meeting is to be held, written statement setting out:
  - (i) the name of the person and of the proxy or attorney (if any); and
  - (ii) an address to which notices to the person, proxy or attorney may be sent; and
  - (iii) a telephone number at which the person, proxy or attorney may be contacted; and
  - (iv) any facsimile transmission number to which notices to the person, proxy or attorney may be sent.
- (b) A person, or the proxy or attorney of a person, who participates in the meeting by telephone must pay any costs incurred by the person, proxy or attorney in participating and is not entitled to be reimbursed for those costs from the assets of the companies.

DATED this 13<sup>th</sup> day of December 2012.

A handwritten signature in black ink, appearing to read 'Simon Wallace-Smith', written in a cursive style.

**Simon Wallace-Smith**  
Joint and Several Administrator

Deloitte Touche Tohmatsu  
550 Bourke Street  
MELBOURNE VIC 3000

Telephone: (03) 9671 7000

R.L. BULLER & SON PTY LIMITED (TRADING AS BULLER WINES)  
(ADMINISTRATORS APPOINTED)  
ACN 004 348 207

CLAIM OF EMPLOYEE

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

POSITION: \_\_\_\_\_

NAME OF AWARD or AWA: \_\_\_\_\_

PERIOD OF EMPLOYMENT: \_\_\_\_\_ / / to \_\_\_\_\_ / /

AMOUNT OF CLAIM/DEBT: Wages and salaries for the period from \_\_\_\_\_ / / to \_\_\_\_\_ / / \$

Superannuation \_\_\_\_\_

Unused annual leave days \_\_\_\_\_

Long service leave \_\_\_\_\_

Other (provide details) \_\_\_\_\_

Total \$ \_\_\_\_\_

CURRENT WAGE (GROSS): \$ \_\_\_\_\_ per week/fortnight/month

FURTHER DETAILS OF CLAIM: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please return to:  
Deloitte Touche Tohmatsu  
550 Bourke Street  
MELBOURNE VIC 3000

OFFICE USE ONLY		
POD No:	Ordinary:	\$
Date Received	Preferential:	\$
Entered IPS:	Rejected:	\$
RATA Amount: \$	Held Over:	\$



CORPORATIONS ACT 2001

APPOINTMENT OF PROXY  
CREDITORS MEETING

R.L. BULLER & SON PTY LIMITED (TRADING AS BULLER WINES)  
(ADMINISTRATORS APPOINTED)  
ACN 004 348 207

\*I/\*We (1) .....  
of .....  
a creditor of R.L. Buller & Son Pty Limited, appoint (2) .....  
.....  
or in his or her absence .....  
as \*my/our \*general/special proxy to vote at the meeting of creditors to be held on 21 December 2012, or at any  
adjournment of that meeting.(3)

DATED this                                      day of                                      2012.

\_\_\_\_\_  
Signature

CERTIFICATE OF WITNESS

*This certificate is to be completed only if the person giving the proxy is blind or incapable of writing. The signature of the creditor, contributory, debenture holder or member must not be witnessed by the person nominated as proxy.*

I, ..... of .....  
certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

Dated:

Signature of Witness:

Description:

Place of Residence:

\_\_\_\_\_  
\* Strike out if inapplicable

- (1) If a firm, strike out "I" and set out the full name of the firm.
- (2) Insert the name, address and description of the person appointed.
- (3) If a special proxy add the words "to vote for" or the words "to vote against" and specify the particular resolution.





## Declaration of Independence, Relevant Relationships and Indemnities

### R.L. Buller & Son Pty Limited (trading as Buller Wines) ACN 004 348 207 (the Company)

This document requires the Practitioners appointed to an insolvent entity to make declarations as to:

- A. their independence generally;
- B. relationships, including
  - (i) the circumstances of the appointment;
  - (ii) any relationships with the Insolvent and others within the previous 24 months;
  - (iii) any prior professional services for the Insolvent within the previous 24 months;
  - (iv) that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to the Practitioner.

This declaration is made in respect of ourselves, our partners and Deloitte Touche Tohmatsu (Deloitte).

### A. Independence

We, Simon Wallace-Smith and Salvatore Algeri of Deloitte have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as administrators of the Company in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

### B. Declaration of Relationships

#### i. Circumstances of appointment

We were introduced to the Company's management by its legal advisor (Greg Thomas of Armstrong Lawyers) in order to provide advice to the Company in relation to its current financial situation.

On 25 October 2012, Simon Wallace-Smith and Salvatore Algeri and Robert Scott Woods of Deloitte met with Gary Bell (General Manager), Richard D. Buller (Operations Manager) and Greg Thomas to discuss how Deloitte may be able to assist the Company.

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On 29 October 2012, a draft scope of works was sent via email to Gary Bell in order to commence an Investigating Accountants review. Following this email, a teleconference meeting was held with Salvatore Algeri and Gary Bell on 30 October 2012 to further refine the scope of works.

The scope of the engagement included a review of the following areas:

- Overview of management and corporate structure
- Financial situation of the Company
- The solvency of the Company
- Consideration of options available to the Company.

Following the execution of the engagement letter on 31 October 2012 (Engagement Letter), we had four meetings with the Company and its advisers during a period of less than six weeks which are listed as follows:

<b>Event</b>	<b>Date</b>
Meeting at the Company's premises in Huntingdale, Victoria, with Gary Bell, Richard D. Buller, Salvatore Algeri and the Company's external accountant, Carmelo Montalto of Penn Business Solutions, to commence the review and request the provision of information including forecast position for 1 November 2012 to 30 June 2013.	2 November 2012
Meeting at Company premises in Huntingdale, Victoria, with Gary Bell, Richard D. Buller, Susan Buller, Salvatore Algeri and Carmelo Montalto at which Salvatore Algeri presented a paper that outlined the Company's current financial forecast for the period ended June 2013 (Paper). Consequences of insolvency and alternative courses of action were discussed.	26 November 2012
Meeting at Company premises at Huntingdale, Victoria, with Gary Bell, Valerie Buller, Richard Buller Snr., Richard D. Buller, Andrew Buller, Carmelo Montalto and Salvatore Algeri to discuss the consequences of insolvency and alternative courses of action.	29 November 2012
Meeting at Deloitte's offices with Richard Buller Snr., Richard D. Buller and Susan Buller to answer queries in relation to the voluntary administration process and to clarify and explain the nature and consequences of an administration on the Company and to provide our consent to act.	4 December 2012
Meeting at Company's premises at Huntingdale, Victoria with Richard Buller Snr., Richard D. Buller, Gary Bell, and Jacqueline Kwok of Deloitte to discuss the Company's forecast cash flow and, the process and consequences of voluntary administration.	6 December 2012
Meeting at Deloitte's offices with Richard Buller Snr., Richard D. Buller, Salvatore Algeri and Simon Wallace-Smith to answer queries in relation to the voluntary administration process.	11 December 2012

We note that very little progress was made following the execution of the Engagement Letter as the requested financial information, including the year to date financial position and the forecast trading performance, was not finalised by the Company until 19 November 2012.

With respect to the financial information we did receive, a high level review was performed only to understand the Company's forecast cash flow position. We did not complete the scope of works as agreed by the Engagement Letter and no report was produced. An invoice for \$10,350 plus disbursements and GST was raised on 23 November 2012. The invoice was subsequently reversed on 29 November 2012 and any work-in-progress has been written off. We have received no remuneration in consideration for the advice.

These meetings do not affect our independence for the following reasons:

- These meetings were in the nature of pre-appointment discussions and were limited to the financial position of the Company. During the meetings advice was limited to verbal discussions of the potential options available. It is our opinion that these meetings do not present a conflict or impediment as we do not consider ourselves to be bound to provide services to the Company in relation to this matter or in any way obligated to deliver a favourable outcome to any party, nor will the advice provided be subject to review and challenged during the course of the voluntary administration. The Courts and the IPA's Code of Professional Practice specifically recognise the need for practitioners to provide advice on the insolvency process and the options available and do not consider that such advice results in a conflict or is an impediment to accepting the appointment.
- The scope of work contemplated in the Engagement Letter was never completed and we have not received any remuneration under the Engagement Letter.
- The review of the Company's current financial position has assisted me in developing an understanding of the Company and its activities.
- Much of the work performed following the execution of the Engagement Letter is work that would have been carried out in the ordinary course of any appointment of external administrators and commented on in any report to creditors following the appointment of external administrators
- The nature of the Paper provided to the Company is such that it would not be subject to review and challenge during the course of the voluntary administration. The preparation of the paper will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the voluntary administration of the Company in an objective and impartial manner.

## ii. Relevant Relationships (excluding Professional Services to the Company)

We, or a member of our firm, have, or have had within the preceding 24 months, a relationship with:

Name	Nature of relationship	Reasons why not an impediment or conflict
Armstrong Lawyers	Referral from law firm	<p>To date, we have not undertaken any appointments which have been referred to us by Armstrong Lawyers in the usual course of business.</p> <p>We are not paid any commissions, inducements or benefits by Armstrong Lawyers to undertake any appointments. There is no arrangement between us and Armstrong Lawyers that we will give any work arising out of the administration to Armstrong Lawyers.</p> <p>There is no relationship with Armstrong Lawyers which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>
Australia and New Zealand Banking Group Limited (ANZ)	<p>ANZ hold circulating and non-circulating security interests over the whole or substantially the whole of the property of the Company.</p> <p>We have undertaken a number of formal insolvency and advisory engagements for ANZ in the usual course of business.</p> <p>Deloitte has provided and continues to provide Accounting, Advisory, Assurance, Consulting, Forensic, Risk Services and Tax services to ANZ.</p>	<p>We have not undertaken any work for ANZ in respect of the Company.</p> <p>We do not consider previous formal insolvency and advisory engagements accepted for ANZ to present a conflict as there is no connection between these engagements and the Company.</p> <p>The provision of Accounting, Advisory, Assurance, Consulting, Forensic, Risk Services and Tax services to ANZ brings about a commercial relationship that in our opinion does not present a conflict or impediment as it does not impact upon the position of the Company.</p> <p>We are not paid any commissions, inducements or benefits to undertake any engagements with ANZ and do not consider ourselves to be bound or in any way obligated to deliver a favourable outcome to any party.</p> <p>Therefore there is no relationship with ANZ which in our view would restrict us from properly exercising our judgment and duties in relation to the appointment.</p>

## iii. Prior Professional services to the Insolvent

Except for already disclosed in part I, neither we, nor our firm, have provided any professional services to the Company in the previous 24 months.

#### iv. No other relevant relationships to disclose

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that has a charge on the whole or substantially whole of the Company's property that should be disclosed.

#### C. Indemnities and up-front payments

We have not been indemnified in relation to this administration, other than any indemnities that we may be entitled to under statute and we have not received any up-front payments in respect of our remuneration or disbursements.

Dated: 13 December 2012



Simon Wallace-Smith



Salvatore Algeri

#### Note:

1. If circumstances change, or new information is identified, we are required under the Corporations Act and the IPA Code of Professional Practice to update this Declaration and provide a copy to creditors with my/our next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors.
2. Any relationships, indemnities or up-front payments disclosed in the DIRRI must not be such that the Practitioner is no longer independent. The purpose of components B and C of the DIRRI is to disclose relationships that, while they do not result in the Practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the Practitioner nevertheless remains independent.





## **Deloitte Touche Tohmatsu**

## **ASIC/IPA Information sheet for**

**R.L. Buller & Son Pty Limited (Administrators Appointed)**

### **Insolvency information for directors, employees, creditors and shareholders**

ASIC has 11 insolvency information sheets to assist you if you're affected by a company's insolvency and have little or no knowledge of what's involved.

These plain language information sheets give directors, employees, creditors and shareholders a basic understanding of the three most common company insolvency procedures—liquidation, voluntary administration and receivership. There is an information sheet on the independence of external administrators and one that explains the process for approving the fees of external administrators. A glossary of commonly used insolvency terms is also provided.

The Insolvency Practitioners Association (IPA), the leading professional organisation in Australia for insolvency practitioners, endorses these publications and encourages its members to make their availability known to affected people.

#### **List of information sheets**

- Insolvency: a glossary of terms
- Voluntary administration: a guide for creditors
- Voluntary administration: a guide for employees
- Liquidation: a guide for creditors
- Liquidation: a guide for employees
- Receivership: a guide for creditors
- Receivership: a guide for employees
- Insolvency: a guide for shareholders
- Insolvency: a guide for directors

- Independence of external administrators: a guide for creditors
- Approving fees: a guide for creditors

**Important note:** The information sheets contain a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. These documents may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances. You will need a qualified professional adviser to take into account your particular circumstances and to tell you how the law applies to you.

## Getting copies of the information sheets

To get copies of the information sheets, visit ASIC's website at [www.asic.gov.au/insolvencyinfosheets](http://www.asic.gov.au/insolvencyinfosheets). The information sheets are also available from the IPA website at [www.ipaa.com.au](http://www.ipaa.com.au). The IPA website also contains the IPA's Code of Professional Practice for Insolvency Professionals, which applies to IPA members.

January 2008



**R.L. Buller & Son Pty Limited (Trading as Buller Wines)**  
**(Administrators Appointed)**  
**A.C.N. 004 348 207**

**Initial Remuneration Advice to Creditors**

**Remuneration Methods**

There are four basic methods that can be used to calculate the remuneration charged by an Insolvency Practitioner. They are:

**a. Time based / Hourly rates**

This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work multiplied by the number of hours spent by each person on each of the tasks performed.

**b. Fixed Fee**

The total fee charged is normally quoted at the commencement of the administration and is the total cost for the administration. Sometimes a Practitioner will finalise an administration for a fixed fee.

**c. Percentage**

The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations.

**d. Contingency**

The practitioner's fee is structured to be contingent on a particular outcome being achieved.

**Method Chosen**

Given the nature of this administration, we propose that our remuneration be calculated on the time based / hourly rates method. In our opinion, this is the fairest method for the following reasons:

- We will only be paid for work done, subject to sufficient realisations of the company assets or, if there are insufficient assets realised, to the indemnity provided to us (please refer to my Declaration of Independence, Relevant Relationship and Indemnities attached to our first Report to Creditors dated 13 December 2012.)
- It ensures creditors are only charged for work that is performed. Our time is recorded and charged in six minute increments and staff are allocated to duties according to their relevant experience and qualifications.
- We are required to perform a number of tasks which do not relate to the realisation of assets, e.g. responding to creditor enquiries, reporting to the ASIC, distributing funds in accordance with the provisions of the Corporations Act 2001.
- We are unable to estimate with certainty the total amount of fees necessary to complete all tasks required in this administration.

**Explanation of Hourly Rates**

The rates for our remuneration calculation are attached together with a general guide showing the qualifications and experience of staff engaged in the administration and the role they take in the administration. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

Due to the complexity of this administration, in particular in relation to decisions to be made in respect future operations, and timeframes and methods for the sale of the Company's business and assets we are unable to provide an accurate estimation of the Administrators' remuneration at this time.

Dated this 13<sup>th</sup> day of December 2012

  
**Simon Wallace-Smith**  
Joint and Several Administrator

**Deloitte Touche Tohmatsu Restructuring Services Group Guide to Hourly Rates**

<b>Classification</b>	<b>Hourly Rate (excl GST)</b>	<b>Description</b>
Partner	\$625	Registered liquidator or bankruptcy trustee. Brings his or her specialist skills to the administration or insolvency task.
Account Director	\$525	Typically CA or CPA qualified with in excess of 10 years experience on insolvency matters with a number of years at manager level. Answerable to the appointee but otherwise responsible for all aspects of an administration. Capable of controlling all aspects of an administration. May be appropriately qualified to take appointments in his/her own right.
Client Manager	\$420	Typically CA or CPA qualified with 6 to 8 years experience working on insolvency matters. Will have experience conducting administrations and directing a number of staff.
Senior Analyst	\$320	Typically completed or near completion of CA or CPA qualifications with 4 to 6 years insolvency experience. Assists in planning and control of smaller matters as well as performing some more difficult tasks on larger matters.
Analyst	\$250	Typically studying towards CA or CPA qualification with 2 to 4 years insolvency experience. Works under supervision of more senior staff in performing day-to-day fieldwork.
Graduate	\$195	Junior staff member who has completed a university degree with less than one year's experience working on insolvency matters. Works under supervision of more senior staff in performing day-to-day fieldwork.
Support	\$185	Secretarial skills