NOVA PROPERTY GROUP

Nova PropGrow Group Holdings Limited (2011/003964/06)

20 December 2021

Per Email

Gentlemen

YOUR LETTER DATED 11 DECEMBER 2021 (YOUR LETTER)

1. We refer to your letter, which we assume you meant to address to Nova PropGrow Group Holdings Ltd, the holding company of the Nova Group of Companies (inclusive of Nova Property Group Investments (Pty) Ltd ("Investments") ("Nova").

2. In addition to distributing your letter to a number of identified persons including Mr Zwane of the Companies Intellectual and Property Commission ("CIPC") and Deon Pienaar ("Mr Pienaar"), you have sent your letter to representatives of the media and have published the letter on your website and on social media.

3. It is clear, from the aforegoing, that you intend to debate the issues that you raise in your letter in the public domain in an attempt to garner support for your cause. Your letter is lengthy and verbose, the assertions contained therein are numerous and deliberately

emotive and whatever we say in response will undoubtedly draw critisizm from you and those who support your agenda.

4. In the circumstances we intend to react only to the core issues raised by you, in general terms. Our failure to respond to any specific allegation must not be seen as an admission of such allegation and our rights to respond more fully at the appropriate time and in the appropriate forum, are hereby reserved.

5. Before responding to the issues raised in your letter we must, at the outset, take issue with two aspects, namely who you are and who you actually represent.

6. As to who you represent, whilst you suggested that you act in the interests of a group of persons whom you purport to represent, you have not identified your members, whether in number of by name.

7. It is also ludicrous, with respect, to suggest that you address us at the instance of persons who are not members of your interest group and from whom you have yet to receive a mandate. The logic of this statement only needs to be examined in order to be rejected.

8. Whilst you purport to represent the interests of Debenture Holders at large, it is clear, for reasons that we deal with below, that your activities are driven by the private agendas of the signatories of your letter (in particular Mr Lombaard), the members of the media with whom you are liaising and Mr Pienaar and that you do not actually have the interests of the majority of Debenture Holders at heart.

9. We are aware of the fact that Mr Lombaard, in particular, seeks to exonerate himself as an erstwhile Sharemax broker in circumstances where the FAIS Ombud in 2018, and in holding Mr Lombaard liable to repay to an investor, the amount of R1.3 million invested into the Villa, was extremely critical of Mr Lombaard and accused him, inter alia, of being negligent, incompetent, lacking skill as a broker, in violation of his duties towards his client

and of serving his own interests over the interests of his client. In addition, Mr Lombaard has been found guilty of theft, sentenced to jail and had imposed on him, by the court, a fine payable to the victim of his crime. Mr Lombaard is not a person competent to purport to act in any representative capacity.

10. If we do not respond to your letter we will undoubtedly be criticised by you and others who support your agenda, for not doing so. It is for this reason that we have elected to respond to your letter but we do so without conceding that you have any support or following of significance or that you have any form of real mandate to represent Debenture Holders, specifically or generally.

11. We now turn to your letter and respond with reference to the headers contained therein.

Clause 15.3 of the Trust Deed

12. You have sought to engage us with a lengthy discourse on the meaning of clause 15 and its sub-clauses. In doing so you have sought, in the first instance to suggest that we were wrong in our view that Mr Cohen's resignation was unlawful.

13. Whilst we do not intend to enter into a debate with you as to whether Mr Cohen's resignation, historically, was or was not unlawful, the debate has in any event become moot in that Mr Cohen, following an approach from us in November 2021, recorded that he was not prepared to assist, as Trustee, in any Nova related matter.

14. Mr Cohen's stance, as aforesaid, constituted a repudiation of his office as Trustee which we had no choice but to accept in as much as it appears that the Trustee will need to play a more active role in the coming year, thus Mr Cohen's position as Trustee has now become terminated.

15. What you have suggested, based on your flawed argument that Mr Cohen lawfully resigned in 2019, is that because Investments ought to have, but did not in your view, at that stage, convene a meeting of Debenture Holders to confirm the appointment of a new Trustee, that Investments is now in some or other manner precluded from convening a meeting of Debenture Holders to confirm the appointment of a new Trustee.

16. The argument that you seek to advance is not bourne out by a simple reading of the Trust Deed ("the Deed"). Clause 15.3 of the Deed, in its terms, imposes upon Investments the obligation, upon the effective termination of the Trustee's office, to nominate a new Trustee, within 90 days **or such additional period as may be reasonable in the circumstances.** (emphasis added)

17. There is no suggestion in the Deed that Investments, following any failure to nominate a new Trustee within the 90-day period specified in clause 15.3 of the Deed, would be precluded from making any such nomination after the expiry of the 90-day period and as appears from the emphasis, Investments is entitled to nominate a new Trustee after the expiry of the said 90-day period.

18. Be the aforegoing as it may, given that Mr Cohen's position as Trustee has now been terminated and that Investments has now nominated a new Trustee, the nomination is valid and we have called a meeting of Debenture Holders as the Deed entitles us to do. To the extent that Debenture Holders might, in the interim, have been able to have taken steps to appoint a Trustee of their choosing, they have not done so and cannot do so now.

19. In the circumstances the meetings that have been convened to take place on 11 January 2022 have been properly called, for a legitimate purpose and will be proceeding on that basis.

20. As to the nomination of Mr Tromp as the new Trustee, Mr Tromp is a senior Chartered Accountant of many years standing and he will address the issues of his credentials and his competency as a Trustee, at the meetings.

Nomination of Mr Pienaar

21. We are, quite frankly, shocked at your audacity in suggesting that Mr Pienaar would be a suitable candidate for appointment as Trustee. Mr Pienaar has, pursuant to his historical endeavors as a financial services provider promoting property syndication products to his clients, gained notoriety for his incompetent and abusive litigation, over a number of years, against various players in the financial services industry, most notably the Prudential Authority of the South African Reserve Bank ("the SARB").

22. In relation to the Nova Group, Mr Pienaar instituted proceedings against the SARB and the Nova Group, in the Gauteng Division of the High Court, Pretoria, nearly 5 years ago. Despite the lapse of nearly 4 years since the scathing judgement of Justice Tuchten against Mr Pienaar in those proceedings, followed by two unsuccessful visits by Mr Pienaar to the Constitutional Court ("CC") and an unsuccessful visit by him to the Supreme Court of Appeal ("SCA"), Mr Pienaar still persists, in an abusive and incompetent process that completely disregards the Rules of Court, to have Justice Tuchten's judgement overturned.

23. We suspect that you are well aware of Justice Tuchten's judgement in which he criticized Mr Pienaar at some length, but it is attached in any event and we highlight the following extract:

"*This litigation brought by the applicant has fallen so far short of what is required to achieve a legitimate joinder of issues on these points; the applicant has so steadfastly refused to consider the procedural inadequacies caused by his failure to join the numerous*

interested persons who were affected by the orders which his vaguely drawn notice of motion constituted; and his failure to consider the consequences of his failure to apply for condonation in terms of the Promotion of Administrative Justice Act is so egregious that I can only consider the application as a whole as inappropriate."

24. By virtue of the extensive litigation against Mr Pienaar, we have been forced to incur millions of Rands of legal fees and have taxed bills of costs against Mr Pienaar for in excess of R1.3 million, which he has not paid.

25. Despite all of his losses in his numerous cases (on his own admission some 30) involving property syndications at large, including the failure of countless unsuccessful applications for leave to appeal to both the SCA and CC, Mr Pienaar steadfastly refuses to accept any accountability for the consequences of the litigation that he has pursued for nearly a decade, including tens of millions of rands of wasted legal costs that Mr Pienaar has forced various parties to incur without paying any of the numerous costs orders given against him by various courts.

26. This has resulted in the SARB launching an application to have Mr Pienaar declared a vexatious litigant. Pending the finalization of this litigation, Pricewaterhouse Coopers (PWC) has also applied for and recently obtained, an order to declare Mr Pienaar to be a vexatious litigant.

27. The judgement in the PWC case (also attached) is also replete with criticism of Mr Pienaar but for present purposes we highlight the following extracts:

"*[57] What is more, tragically the first respondent and his 'investors' assume that it is perfectly acceptable and normal for the first respondent to represent their cause in courts, even though he has no background in litigation. The irony of this is that at times the first respondent wants to use the lack of legal knowledge for his litigation woes. However, he*

is the one who has a penchant to file cases and inviting the applicants to the courts. I have no doubt that the conduct of the first respondent since 2014, and throughout, flies in the face of someone who is experiencing legal woes because of the lack of legal knowledge. Hence, it would be plainly disingenuous for the first respondent to claim lack of legal knowledge.

…

[60] All of the above considered, I am satisfied that this court can deduce that, the conduct of the first respondent, amongst others, resulted in the following: cost orders being simply ignored; courts being treated with disdain; citizens financially backing a patently futile litigation; clogging of the system with meritless applications, thereby putting a severe burden on court rolls; harm to genuine litigants who are forced to wait for considerable periods of time…"

28. Mr Pienaar has, over the years, conducted himself in a manner that is destructive of the interests of stakeholders in not only in regard to the Sharemax issue, but also numerous other property syndication schemes and he is clearly motivated by an agenda that serves his own interests.

29. Mr Pienaar is entirely unsuitable for the role of Trustee and his nomination can never be countenanced by any person who genuinely has the interests of Debenture Holders to heart.

30. Even if Mr Pienaar was a suitable candidate, which he most certainly is not, your attempt to nominate Mr Pienaar and his attempt to accept such nomination is not one that is contemplated by the Deed and holds no legal force. The further suggestion that such "nomination" can competently be included as an agenda item in any of the meetings is also not one that is contemplated by the Deed and similarly holds no legal force.

Media presence at the meetings

31. In seeking to justify the presence of the media at the meetings, and in suggesting that the presence of the media, by way of the receipt of a proxy from a Debenture Holder, constitutes a legitimate and bona fide exercise of a right of proxy, you have deliberately misconstrued the basis of meeting attendance and the rationale for holding and exercising a proxy.

32. At the risk of stating the obvious, the right of proxy enables a Debenture Holder to exercise a voting right in circumstances where the Debenture Holder is not able, for personal reasons, to attend a meeting personally.

33. The media representative to whom you refer but do not identify, is, without a doubt, Mr Ryk van Niekerk of Moneyweb, who has made it a personal crusade to launch a barrage of personal attacks on us and our directors at every turn.

34. There can be no doubt that Mr van Niekerk, in purporting the exercise a right of proxy, will not attend the meetings with a view to participating in the business that is the order of the day, namely to vote upon the resolutions before the meetings; rather, Mr van Niekerk will be attending the meetings in an attempt to use the meetings as a platform to level unwarranted critisizm, cause disruption and, thereafter, publish further unwarranted negative media.

35. Any attempt to utilize a right of proxy for the dedicated purpose of causing disruption or for any purpose other than to cast the vote of the person giving the proxy, i) constitutes an irregular, mala fide and ulterior purpose, ii) does not constitute respecting or serving the best interests of the proxy grantor.

36. Declining the likes of Mr van Niekerk to attend the meetings, by proxy, is not tantamount to denying any Debenture Holder their right to vote, simply because any Debenture Holder

giving a proxy to Mr van Niekerk does so in the knowledge that Mr van Niekerk's agenda is not to exercise the vote of such Debenture Holder.

Yours faithfully

Connie Myburgh

Nova PropGrow Group Holdings Ltd