

sbutler@iinet.net.au

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**From:** Eva Lin <elin@jacmac.com.au>  
**Sent:** Friday, 2 December 2011 11:03 AM  
**To:** 'Sean Butler'  
**Subject:** RE: Lighthouse Hotel purchase offer from gavin Kelly rejected [IWOV- Documents.FID465097]

Noted, thanks Sean.

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**From:** Sean Butler [mailto:sbutler@iinet.net.au]  
**Sent:** Friday, 2 December 2011 10:05 AM  
**To:** Eva Lin  
**Subject:** Lighthouse Hotel purchase offer from gavin Kelly rejected

Hi Eva,

I had several calls yesterday from Gavin Kelly yesterday wanting to discuss why his request to present an offer for the Lighthouse Beach resort was rejected by the selling agents even though the Resort isn't sold.

I have taken hand written notes as he talked of the conversation:

He told me:

The selling agent David Kennedy said to him when he enquired if it was still available that "it's not sold till it's sold" so he had a chance and to "go on and put an offer in"

Gavin told me he did a considerable amount of work on it and then requested pro forma documents for his offer which were then sent to him by David

He was then advised as per the email below and not heard anything since:

**From:** Churchlands Holdings Pty Ltd [mailto:info@churchlands.net]  
**Sent:** Wednesday, 16 November 2011 11:02 AM  
**To:** Kennedy, David @ Perth  
**Subject:** Re: FW: Lighthouse Beach Resort Bunbury

Thankyou David

If the deal falls over for the receiver, can you call me as we would still be interested.

regards

Gavan

On 15 November 2011 16:58, Kennedy, David @ Perth <[David.Kennedy@cbre.com.au](mailto:David.Kennedy@cbre.com.au)> wrote:

Gavan

The receiver has advised today that as negotiations are very advanced that they will not be treating on any other offers unless the dealing fails.

Thank you for your interest and we will let you know the outcome in due course.

David Kennedy | Senior Director  
CBRE (C) Pty Ltd | Hotels  
Level 2, 216 St George's Terrace | Perth, WA 6000  
T [+61 8 9320 0087](tel:+61893200087) | F [+61 8 9481 1296](tel:+61894811296) | M [+61 439 038 006](tel:+61439038006)  
[david.kennedy@cbre.com.au](mailto:david.kennedy@cbre.com.au) | [www.cbre.com.au](http://www.cbre.com.au)

He said he is "pissed" that he has just found out over two weeks later it's still available.  
He hadn't thought about it since 14<sup>th</sup> November and has since found something else to buy.  
He said he has \$2m cash in the bank... He has got money now!!

Found another property already.

He can show them the bank statement to prove he has money-

Tell them \$2m in the bank.

He was really interested in it.

He was going through the process of due diligence process and offer.

Another Party he knows was contacted: John Hood- he does hotels yes

John manages hotels and likes iconic properties.

He sent details over to John Hood.

There is an email trail on it all.

Memorandum of information was sent to John Hood.

He told the agent there was insufficient material which there was.

Need more info.

Asked updated figures from agents- not sent

If it goes to court they cannot challenge info (meaning his emails and evidence) all a paper trail.

He also prepared a due diligence list for the property and business (I see that's noted in one of Gavins emails to David)

Actually almost sent it to the agents- but didn't do (as by then advised it's not available)

He asked questions and for information so he can buy it.

David Kennedy wrote back saying put an offer in.

He then discussed with me the lower price on the pro forma he has now seen

Get lot (meaning both hotels) for \$13 ½ m Brian out

Brian gets nothing and he gets two hotels

CBRE are professional agents

In the email sent (shown above) to him it said "receiver has advised today" so agents must have spoken to receivers that day saying Gavins offer was coming in and then told the agents not to bother (we talked about this... Gavin thinks the receivers DID tell the agents not to bring his offer in, which they denied at the Bankwest meeting on 30<sup>th</sup> November)

He has got Karrinyup Lakes and other assets

Margaret River Land now

Partner developer John Preuss and Gavin met on Tuesday PM on new deal just purchased (subsequent to Lighthouse not being available)

He said tell the agents/ bank that "these guys know what they are doing" meaning Gavin and John

They look at deals with legal problems or receivers (they are both professional developers and also lawyers)

ICONIC + receivership- so very interested

He would swear on a bible in a court room and more than comfortable to do so

Damages claim:

"Loss of a chance" against the receiver

Would they have brought it .... Yes

Bank is burning us up with interest.. I am paying (meaning Sean)

Receivers telling Lies

They are dealing with one director and not Me (meaning Sean)

Breach of Fiduciary by Duty Brian Benari

He (Gavin) is still interested – but now 1 down south

18mths-2yrs to sort out

+rezone

3-4 year project (referring to the project brought since lighthouse lapsed)

He has 3 months off so got the time now

Financier needed

Will Lend impaired asset

Pattern of bank behaviour

Sale price as real price

Lend \$6m on 9m (so he is now talking on Brians reduced price as emailed to Gavin in documents from agents)

This is a stuff up by receivers - Damages Claim

He wants to buy Lighthouse has backing and will offer.

Units in the trust subject to receivership? Let him know?

He subsequently called me again to discuss the properties themselves

He said he would put our discussions in writing or make a statement if needed. He said it's all documented

He said he will call the agents

The price Gavin was talking was \$14m (it was valued at \$20m three years ago so that seemed cheap) and I have meeting written notes on that too as I think he would as well

He is now talking of just above Brians offer, a loss to the owners of \$4.5m

I can scan and email the hand written notes if needed

I think the property needs to be re advertised for sale given this has happened

Were other interested parties also told not to bother?

Was the contract with the \$9,491,000 price also sent to others?

Gavin Should be given a chance to buy it

Can we seek damages and take action as highlighted in yellow above?

As you said yesterday this is "terrible"

Regards

Sean Butler

Regards