



The Royal Bank of Scotland Group

Your ref:

Our ref: RW/Lit

Date: 1 February 2008

Mr Mark Hardy  
3 St Mary's Square  
Bury St Edmunds  
IP33 2AJ

#### Group Litigation

1 Princes Street  
London  
EC2R 8PB

Telephone: 020 7714 4449  
Facsimile: 020 7714 4455

Dear Sir

#### **Just Group plc ("Just Group") and National Westminster Bank Plc (the "Bank")**

I write further to your email to Mr Miller McLean dated 8 January 2008. As stated in my letter to you of 9 January 2008, this matter has been referred to me. I am now in a position to respond to you having investigated the matter thoroughly.

You act on behalf of Think Entertainment plc ("**Think Entertainment**"), the successor in title to the sum of £322,000 formerly the property of Just Group plc. You claim that this money is now missing, having been misappropriated by KPMG, the administrators of Just Group plc.

It appears from your email of 8 January that you now seek the Bank's assistance in recovering this sum.

We have focused our attention on the 2 aspects of your letter, namely (1) the status of the missing £322,000; and (2) the role of the Bank.

#### **1. The missing £322,000**

You claim that KPMG, pursuant to the terms of a Creditors Voluntary Agreement, were required to deposit £322,000 into an escrow account pending the decision in *Re Brumark*. You say that this £322,000 was not placed into escrow at all, but instead "*it seems to have been lost in a general pot of monies and spent*".

We have not reviewed the Creditors Voluntary Agreement. We have, however, been informed by KPMG that this money is not missing. KPMG have informed us that, following the decision in *Re Brumark*, there was a dispute regarding the ownership of these funds between various entities, including HM Revenue & Customs and Think Entertainment. In accordance with the usual practice in disputes of this nature, KPMG paid the £322,000 into Court, thereby enabling all interested parties to make a claim on the funds. We understand that these proceedings are ongoing and that Think Entertainment has been involved in these proceedings and has made representations to the Court. Ultimately it will be for the Court to determine to whom these

monies belong. What is clear is that, despite what you say in your email, this £322,000 is not missing but is held by the Court.

## 2. The role of the Bank

It is apparent that a proper mechanism for the resolution of this dispute has already been put in place. In these circumstances, we do not believe the Bank is able to offer any further assistance.

However, we note your comment in your email of 10 January alluding to the possible "complicity" of the Bank. Nothing has been revealed by our investigation into this matter to suggest that the Bank was involved in dealing with the £322,000 in dispute.

First, there is no evidence at all to suggest that the Bank was ever required to take active steps to place the money into escrow. As stated above, we have not reviewed the Creditors Voluntary Agreement but we would expect that any obligation to place any money into escrow would fall to KPMG as the administrators of Just Group plc, not the Bank.

Secondly, it cannot be said that KPMG has ever been or could be regarded as the agent of the Bank. KPMG have at all times been an independent party, acting as the administrator of Just Group plc. There is no scope for attributing the actions of KPMG to the Bank.

### Conclusion

For the reasons given above, we regret that the Bank is unable to provide you with the assistance you require.

Yours sincerely



Robert Worthington

For the attention of Miller McLean  
General Counsel,  
Royal Bank of Scotland Group

Dear Mr McLean

I write to seek your help in passing this to the appropriate person in your Department that might be able to help with this matter that relates to dealings with NatWest in 2002 and the sum of £322,000 that was contractually required to be held in Escrow and refunded under specific circumstances, but was not. The Escrow was required because of the uncertainty in relation to the Re Brumark matter with which I am sure you are familiar.

I act by Power of Attorney for the successor in title to those monies, Think Entertainment plc, by virtue of a reorganisation under s110 of the Insolvency Act in 2004. The original Just Group was renamed NewScreen Media Group plc and is now in Creditors Voluntary Liquidation.

The sum arose under the terms of a Creditors Voluntary Arrangement relating to Just Group plc, where NatWest had appointed two partners of KPMG llp as Administrators, and for which the shareholders raised more than £5,800,000 to implement the CVA including full repayment of the bank loans.

The matter of what happened to the "missing escrow" monies has only come to light because of hotly contested proceedings in the High Court relating to the administration of one of the Just Group subsidiaries, where by coincidence the legal team from HMRC in those proceedings happens to be the same one that was involved in your own Brumark test case, NatWest -v- Spectrum Plus.

The problem seems to have arisen when NatWest were repaid in full within a matter of weeks, and there was also enough money to pay the Preferential Creditors (HMRC) in full.

NatWest had not escrowed the money as required and it therefore seems that KPMG were acting as NatWest's agents and should have, but did not, repay the monies forthwith. Instead it seems to have been lost in a general pot of monies and spent by them.

Matters have become hotly contested, to say the least, and I have demanded repayment of the monies, together with interest, costs and expenses from KPMG and have served a Letter before Action upon Colin Cook their Chief Executive. A quick call from your non-exec director Archie Hunter (ex KPMG Scotland) to Mr. Cook will probably get you and your department up to speed very quickly on the "heated" nature of the proceedings.

In the absence of resolution within the next few weeks, it is my intention to issue a Statutory Demand on KPMG llp and inevitably it will have to refer to them as acting in the capacity of agent for NatWest.

Your staff will be able to see a lot of the documents - including my Power of Attorney, the CVA documents (including the Escrow clause) and my somewhat idiosyncratic approach to sorting out the rump of Just Group and its 55,000 shareholders - by reference to the website at [www.thinkentertainmentplc.blogspot.com](http://www.thinkentertainmentplc.blogspot.com)

HMRC, the liquidator of Just Group and I are trying to resolve matters with KPMG in the EDI matter, and to that end we are hopefully all meeting next week as ordered by the High Court. However that will still leave the matter of the breach of trust/contract and the long overdue refund of the Escrow monies to be dealt with.

It would be nice to be able to wrap up the whole of the adversarial matters at the same time, so any information you or your staff are able to provide as to why the Escrow was neither put in place nor refunded would be much appreciated.

I look forward to hearing from you.

Regards

Mark Hardy