



Skin Elements Limited
ASX ANNOUNCEMENT

ASX CODE:SKN

22 October 2020

Vanessa Nevjestic
Adviser, Listings Compliance (Perth)
Australian Stock Exchange Limited
Level 40, Central Park, 152-158 St George's Terrace
PERTH WA 6000

By email: listingscomplianceperth@asx.com.au

Dear Vanessa

We refer to your letter dated 20 October 2020 regarding an ASX Query Letter and respond to your questions as follows:

- Please explain why SKN considered the announcement of the Term Sheet to be market sensitive (see paragraph A above) but has now formed the view that the termination of the Term Sheet is not expected to have a material impact on SKN's operations and production (see paragraph F above).**

Skin Elements Limited ("SKN" or "the Company") executed a binding Collaboration Term Sheet ("Term Sheet") on 1 April 2020 with Holista Colltech Limited ("HCT") to supply the Company the Path-Away ingredient for its Invisi-Shield SE Formula. At this time, SKN considered the Path-Away ingredient (developed by GICC in the United States) a key ingredient in the ongoing development of its natural Invisi-Shield SE Formula.

GICC informed SKN that it had granted the rights for Path-Away to HCT, an ASX listed company, for hand sanitisers, and that SKN would have to access Path-Away through HCT. SKN then negotiated the terms of supply of Path-Away in a Term Sheet with HCT, and marked the joint announcement on the Term Sheet as 'market sensitive' as at the time access to the ingredient was considered material to the Skin Elements Invisi-Shield SE Formula.

Since launching the Invisi-Shield range in March 2020, SKN has a continual ongoing process of development and sourcing of ingredients for its SE Formula and has sourced an alternative ingredient to Path-Away. Therefore, SKN considers that the termination of the HCT Term Sheet and the non-supply of Path-Away will not have a material impact on SKN's production of the Invisi-Shield range and therefore on SKN's operations.

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2. Did HCT contact SKN in relation to its compliance with the Term Sheet and/or the potential termination of the Term Sheet prior to 15 October 2020?

SKN and HCT were in regular contact regarding the placing of orders and the delivery of Path-Away from HCT to SKN, and SKN was continually pressing for the execution of the long form Supply Agreement between the parties to ensure the commitment of HCT to the ongoing supply of the Path-Away ingredient.

If the answer to this question is 'yes':

a) Please specify the date(s) on which HCT contacted SKN in relation to these matters.

On 25 September 2020, HCT threatened to terminate the Term Sheet. SKN reiterated to HCT that it would not be sending any more funds until the formal agreement was agreed and signed, given execution was a binding commitment made under the Term Sheet.

b) Please explain why SKN did not disclose this correspondence in the 15 October Announcement and/or in its response to the Query Letter.

SKN considers that HCT was in breach of the terms of the Term Sheet by not executing the Supply Agreement.

Notwithstanding this breach by HCT, SKN continued to perform its obligations under the Term Sheet in good faith.

SKN did not believe that it was in default of the Term Sheet as SKN was in ongoing dialogue with HCT about both execution of the long form Supply Agreement and the delivery of Path-Away under the Term Sheet.

The terms of the order and delivery of Path-Away as agreed between the parties were to achieve the minimum order of \$600,000 per annum and did not contemplate termination if SKN did not order 5 gallons per week.

3. Please clarify why:

a) SKN did not announce that it had received a notice of termination of the Term Sheet from HCT prior to the commencement of trading on 16 October 2020.

As noted in response 2(b) above SKN did not believe that it was in default of the Term Sheet and in any event as noted in response 1 the termination of the Term Sheet is not expected to have a material impact on the operations and production of the Company.

SKN made several attempts to contact HCT after receipt of the notice of termination, who did not respond but instead made an announcement to ASX on 16 October 2020.

b) SKN did not believe it was in default of the Term Sheet at the time of receipt of the termination notice from HCT (see paragraph F above).

See response 2(b) above.

4. What is the status of SKN's order and payment for the 'further 170 litres of Path-away' (see paragraph B above)?

SKN ordered in April 2020 the first 174 litres of Path-Away which was delivered to SKN in August 2020 and this order has been paid in full. In August 2020, SKN ordered a further 170 litres of Path-Away and paid \$72,371 to HCT which has not yet been shipped to SKN. These orders total \$219,901.

5. Has SKN paid a total of \$219,901 to HCT (see paragraph B above)?

No

If the answer to this question is 'no', please confirm the amount that SKN has paid to HCT to date, and the amount (if any) currently owing to HCT.

SKN has paid \$183,530 to HCT. SKN will pay the balance of \$36,371 prior to shipment.

6. Please clarify the ingredient which SKN will now source from alternate suppliers (see paragraph F above)?

As part of its normal business operations and continued refinement of its confidential SE Formula technology, SKN sources a range of ingredients from numerous different national and international suppliers for production of its Invisi-Shield sanitiser, Soleo Organics suncare, PapayaActivs therapeutics, and Elizabeth Jane cosmetic skincare. SKN would not in the ordinary course of business disclose formulations, ingredients, or production processes as a means of protecting its intellectual property, which is a secret formula.

7. Please confirm that SKN is complying with the Listing Rules and, in particular, Listing Rule 3.1.

The Company confirms that it is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.

8. Please confirm that SKN's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of SKN with delegated authority from the board to respond to ASX on disclosure matters.

The Company confirms that its responses to the questions above have been authorised and approved by an officer of the Company with delegated authority from the board to respond to the ASX on disclosure matters.

Yours sincerely

Peter Malone
Chief Executive Officer

For further information, please contact:

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About Skin Elements

Established in 2005, Skin Elements is an award winning Australian owned and operated ASX-listed skin care company focused on the development of natural and organic skin care products. Skin Elements innovative approach to organic chemical free products has enabled the creation of a portfolio of products that have been sold and distributed across the world. Its flagship products include Invisi-Shield Organics natural alcohol-free sanitiser range, Soléo Organics 100% natural and organic sunscreen, PapayaActivs natural therapeutics skincare, and Elizabeth Jane Natural Cosmetics brand.

Further information is available via the Company website: <http://skinelementslimited.com>





20 October 2020

Reference: 26264

Mr Steven Wood
Company Secretary
Skin Elements Limited
32 Ord Street
West Perth WA 6005

By email: sw@grangeconsulting.com.au

Dear Mr Wood

Skin Elements Limited ('SKN'): Query Letter

ASX Limited ('ASX') refers to the following:

- A. SKN's joint announcement with Holista Colltech Limited ('HCT') titled 'SKN enters collaboration with HCT on natural sanitiser' released on the ASX Market Announcements Platform ('MAP') on 3 April 2020 and indicated to be 'market sensitive' regarding a binding collaboration term sheet '*to launch a natural alcohol-free hand sanitiser that combines Skin Elements' new skin-sensitive anti-microbial formula with the Path-Away active ingredient distributed by Holista*' ('Term Sheet'), which included the following statements (emphasis added):
- i) '*Skin Elements' Invisi Shield Natural Hand Sanitiser is a plant based formula incorporating the Path-Away active ingredient.*'
 - ii) '*The Path-Away active ingredients are listed as Generally Recognised as Safe (GRAS) under the Code of Federal Regulations and Federal Drug Administration (FDA) and have been successfully tested at several laboratories approved by the World Health Organisation.*'
 - iii) '*As part of the Agreement, Holista will ship Path-Away as a concentrate to be included in the manufacture of the Invisi Shield Natural sanitiser. This will be made in Australia by Skin Elements in accordance with the unique dilution recommendations for the Path-Away concentrate provided by GICC.*'
 - iv) '*The initial order of the Path-Away ingredient under the Agreement is for a minimum of \$600,000 in the first year. Payment terms will be 50% on order and 50% before shipment. The minimum order quantities will be reviewed on a quarterly basis, in order to assess capacity to increase order quantities as required to meet increased demand.*'
 - v) '**About Invisi Shield**
Invisi Shield Natural is a proprietary all-natural hand sanitiser formulation which uses a combination of the key ingredient, Path-Away, with organic plant extracts being olive leaf, echinacea, Manuka honey, Kakadu Plum, papaya, chamomile and thyme.'
- B. SKN's announcement titled 'Company Update' released on MAP on 15 October 2020 ('15 October Announcement'), which included the following statements (emphasis added):
- The collaboration agreement with HCT is still on foot. SKN has taken delivery of 174 litres of Path-away and ordered a further 170 litres of Path-away in accordance with the agreement with HCT. Current value of orders and deliveries total \$219,901.*

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- C. ASX's query letter dated 25 September 2020 ('Query Letter') and SKN's response dated 15 October 2020, released together on MAP on 15 October 2020, which included the following question (in bold) and answer:

'15. Please confirm that SKN is complying with the Listing Rules and, in particular, Listing Rule 3.1.'

SKN confirms that SKN is complying with the Listing Rules and, in particular, Listing Rule 3.1. and there is no information that should be given to ASX about its financial condition under that rule that has not already been released to the market.'

- D. The reinstatement of SKN's securities to officiation quotation from the commencement of trading on 16 October 2020.
- E. The announcement by HCT titled 'Holista Terminates Term Sheet with Skin Elements' released on MAP on 16 October 2020 at 6:11pm AEDT, which included the following statements:

'Holista has issued a letter of termination on 15 October 2020 following breaches by Skin Elements of several key conditions of the binding term sheet.'

Skin Elements has only fulfilled its weekly order and payment obligations until the end of May 2020. Sales by Holista to Skin Elements to date total AUD 111,159, or 18% of the agreed annualised purchase commitment of AUD 600,000. Skin Elements has defaulted since the month of June.'

- F. SKN's announcement titled 'Update on Termination of Agreement' released on MAP on 19 October 2020, which included the following statements:

'The Company provided an update to the market on 15 October 2020 on the Term Sheet with HCT, following which the Company received a notice of termination from HCT in regard to the Term Sheet.'

Skin Elements advises that in order to manage and optimize its supply chain to meet the manufacturing and sales targets of the Company, it has previously identified alternate providers of the ingredient being supplied by HCT for its natural alcoholfree hand sanitizer Invisi Shield ...

The Company confirms it did not believe it was in default of the Term Sheet at the time of receipt of the termination notice received by the Company late in the day on 15 October 2020 from HCT. However, in any event, the termination of the Term Sheet is not expected to have a material impact on the operations and production of the Company. Continual improvement in the Company's supply chain and in its product formulations are ongoing and in its ordinary course of business.'

- G. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.

- H. The definition of 'aware' in Chapter 19 of the Listing Rules, which states that:

'an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity" and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information.'

- I. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied:

'3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:

3.1A.1 *One or more of the following applies:*

- *It would be a breach of a law to disclose the information;*
- *The information concerns an incomplete proposal or negotiation;*
- *The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- *The information is generated for the internal management purposes of the entity; or*
- *The information is a trade secret; and*

3.1A.2 *The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*

3.1A.3 *A reasonable person would not expect the information to be disclosed.'*

Questions and Requests for Information

Having regard to the above, ASX asks SKN to respond separately to each of the following questions and requests for information.

1. Please explain why SKN considered the announcement of the Term Sheet to be market sensitive (see paragraph A above) but has now formed the view that the termination of the Term Sheet is not expected to have a material impact on SKN's operations and production (see paragraph F above).
2. Did HCT contact SKN in relation to its compliance with the Term Sheet and/or the potential termination of the Term Sheet prior to 15 October 2020?

If the answer to this question is 'yes':

- a) Please specify the date(s) on which HCT contacted SKN in relation to these matters.
 - b) Please explain why SKN did not disclose this correspondence in the 15 October Announcement and/or in its response to the Query Letter.
3. Please clarify why:
 - a) SKN did not announce that it had received a notice of termination of the Term Sheet from HCT prior to the commencement of trading on 16 October 2020.
 - b) SKN did not believe it was in default of the Term Sheet at the time of receipt of the termination notice from HCT (see paragraph F above).
 4. What is the status of SKN's order and payment for the 'further 170 litres of Path-away' (see paragraph B above)?
 5. Has SKN paid a total of \$219,901 to HCT (see paragraph B above)?

If the answer to this question is 'no', please confirm the amount that SKN has paid to HCT to date, and the amount (if any) currently owing to HCT.

6. Please clarify the ingredient which SKN will now source from alternate suppliers (see paragraph F above)?
7. Please confirm that SKN is complying with the Listing Rules and, in particular, Listing Rule 3.1.

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8. Please confirm that SKN's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of SKN with delegated authority from the board to respond to ASX on disclosure matters.

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **6:00am AWST on Friday, 23 October 2020**.

You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, SKN's obligation is to disclose the information 'immediately'. This may require the information to be disclosed before the deadline set out in the previous paragraph.

Your response should be sent to me by e-mail. It should not be sent directly to the ASX Market Announcements Office. This is to allow ASX to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

Trading halt

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in SKN's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

Suspension

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in SKN's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to SKN's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*. It should be noted that SKN's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Release of correspondence

ASX reserves the right to release a copy of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

Enquiries

If you have any queries or concerns about any of the above, please contact me immediately.

Yours sincerely

Vanessa Nevjestic

Adviser, Listings Compliance (Perth)