

Resend some pages to Colin.



## TAKEOVERS PANEL

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Ref: 730-000 / #30209

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### FACSIMILE TRANSMISSION

		<b>Fax No.</b>
<b>To</b>	: Mr C. Giffney Mr D.O. Jones Mr K.J. O'Connor Mr A Lawrence	021 630 153 (09) 367 8799 499 6483 09 307 7022
<b>DATE</b>	: 9 August 2001	
<b>FROM</b>	: Kerry Morrell	
<b>TOTAL PAGES</b>	: 16	
(incl. this page)		

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### **MONTANA TARGET STATEMENT DATE / MONTANA DEFENSIVE TACTICS**

Please find attached papers for a meeting of the Division to be held at **2.00 p.m. today**. The dial in number is 083033 and the PIN is 305308.

Regards

Kerry Morrell



## TAKEOVERS PANEL

Ref: 730-000 / #30446

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9 August 2001

Meeting 2.00 p.m. 9 August 2001

### MEMORANDUM FOR MEMBERS

Mr D O Jones  
Mr C G Giffney  
Mr A Lawrence  
Mr K J O'Connor

### LION NATHAN/MONTANA/ALLIED

1. The meeting is being held to discuss three matters:
  - (a) Complaint from Russell McVeagh for Lion Nathan in relation to the behaviour of the Montana directors in agreeing to the change in offer dates for the Allied offer as set out in the firm's letter of 7 August 2001 (distributed to members yesterday);
  - (b) The question of how to deal with Montana's apparent breach of the Code by not releasing its target company statement when required (3 August 2001);
  - (c) The imposition of costs on Lion Nathan and Allied Domecq in relation to their section 32 hearings.

#### Russell McVeagh complaint re Montana directors' behaviour

2. Russell McVeagh's letter of 7 August 2001 makes a detailed complaint about the actions of Montana's directors in agreeing to changes in Allied's offer document. They seek to rely on rule 38 of the Code (defensive tactics).
3. At this point we have not sought external advice on the issue.
4. The fact of this complaint has been made known to Montana through a hearing last week of the Market Surveillance Panel where Montana and Allied sought to have the MSP decision to extend the dates of the Lion sell-down reversed. Montana has asked for copies of the complaint. We have not yet acceded to that request.

Apparent breach of the Code by Montana directors in relation to the target company statement

5. Members are well aware of the background to this. Montana was required by rule 46 of the Code to send its target company statement to the offerees, the offeror, and the NZSE, by Friday 3 August 2001. It sought an exemption from the Panel to have that deadline extended to Wednesday 8 August 2001. That request was declined.
6. The Montana directors were annoyed at the Panel's response. This is expressed in their press statement of 3 August 2001 (copy attached).
7. Newspaper reports said that Montana had released its annual financial statements, target company statement, and independent adviser's report on Monday 6 August 2001. The Panel has, this morning, received copies of the Montana directors' statement and the independent adviser's report. The Bell Gully covering letter was dated 7 August. Unfortunately we do not appear to have received our NZSE Daily Memos for this week so cannot get a more accurate fix on the release of the target company statement.
8. We enclose copies of the Montana directors' statement. We note it is dated 4 August 2001. The PWC independent advisers' report is dated 3 August. Because of the time it takes to fax large volumes of paper we are not sending the PWC statement to you. From a perusal of the text there seems to have been a cut-and-paste job on the earlier report. The section seen by members earlier now refers to the Standing Committee's decision and Lion Nathan's application for judicial review. The many uncertainties of the situation are explained. However much of the earlier text remains intact.
9. Note that at page 6 of the Russell McVeagh letter of 7 August 2001 the firm refers to the issue of the lateness of the target company statement and expects the Panel to be taking action in relation to the matter.
10. For consideration.

Imposition of fees on Lion Nathan and Allied Domecq for section 32 matters

11. I will endeavour to have something to members on this before the meeting. However I thought I should at least distribute the available material on the first two issues so that members may have a chance to consider it before 2.00 p.m.

Kerry Morrell

FILE COPY

730-000

**Montana Group (NZ) Limited**

Level 15, Forsyth Barr Frater Williams Tower, 55-65 Shortland Street

PO Box 2757, Auckland, New Zealand

E-mail admin@montanagroup.co.nz

Telephone 64-9-307 2660 Fax 64-9-366 1579

A.R.B.N. 089 310 387

RELEASED: 1610  
FAXED: YES / NO

03 AUG 2001

**Announcement by Independent Directors of Montana Group (NZ) Limited dated 3 August 2001 to the New Zealand Stock Exchange for immediate release to the market**

The Independent Directors of Montana Group (NZ) Limited, Messrs Neville-White, Coote, LeGrice and Mogridge, wish to advise Montana shareholders that a ruling by the Market Surveillance Panel of the New Zealand Stock Exchange has caused Montana to delay the completion and mailing of the target company statement and independent adviser's report that Montana is required to have prepared in relation to the takeover offer by Millstream Equities Limited.

These documents were originally due to be printed and mailed by Friday, 3 August 2001. The Independent Directors now expect them to be mailed on Wednesday, 8 August 2001.

The ruling made by the Market Surveillance Panel on 31 July without prior notice to Montana, extended the date by which Lion Nathan Limited is required to sell the 19% parcel of "defaulter's securities" from 11 August 2001 to 17 August 2001.

The Independent Directors of Montana were notified of the Market Surveillance Panel's ruling after 5.00pm on Tuesday, 31 July 2001. This was after Montana's original target company statement and the independent adviser's report had been approved by the Independent Directors for printing and mailing. In the view of the Independent Directors, the ruling may have rendered these documents misleading if they had been distributed in the form that had previously been approved by the Independent Directors.

The extension granted to Lion is material to Montana shareholders who are deciding whether or not to accept Millstream's offer, as that offer currently closes on 17 August 2001. For this and other reasons, the Independent Directors requested that the Panel revoke the extension. At a hearing today that request was declined by the Panel.

Montana sought an exemption from the provisions of the Takeovers Code to permit it to delay the target company statement and independent adviser's report until Wednesday, 8 August 2001. This three day extension was needed to enable the Independent Directors to consider the Market Surveillance Panel's ruling and take account of whether or not that ruling had been revoked. Importantly, even with this delay, shareholders would still have had a week to consider the material to be provided to them by Montana before Millstream's offer closed.

The Independent Directors were disappointed that the Takeovers Panel declined the exemption application.

Unfortunately, the change in timing of Lion's required sell-down was critical to the way in which the Independent Directors explained the inter-connection between the sell-down and Millstream's offer to shareholders. Accordingly, the Independent Directors have had to delay sending the target company statement and the independent adviser's report to shareholders. The Independent Directors expected that the Takeovers Panel would have agreed that it was in the interests of Montana's shareholders and the market generally to allow the Independent Directors time to update the statement to include a clear message to shareholders as to what the ruling means.

Mr Neville-White said that the target company statement and independent adviser's report would also comment, to the extent currently possible, on Lion's judicial review proceedings challenging the three decisions of the Standing Committee, including the decision requiring Lion to sell 19% of Montana's shares. Lion filed these proceedings on Thursday, 2 August 2001.

The Independent Directors of Montana reluctantly record their frustration that the workings of the New Zealand Stock Exchange's Market Surveillance Panel are not sufficiently co-ordinated with the requirements of the Takeovers Code so that directors can better discharge their fiduciary duties in an appropriate manner.



Barry Neville-White

Chairman

Committee of Independent Directors

Montana Group (NZ) Limited

**TARGET COMPANY STATEMENT BY MONTANA GROUP (NZ) LIMITED PREPARED PURSUANT  
TO RULE 46 OF THE TAKEOVERS CODE IN RELATION TO A TAKEOVER OFFER FROM  
MILLSTREAM EQUITIES LIMITED DATED 19 JULY 2001**

**1. Date**

The date of this target company statement (this **Statement**) is 4 August 2001.

**2. Offer**

The offer (the **Offer**) is a full offer by Millstream Equities Limited (**Millstream**) (a wholly-owned subsidiary of Allied Domecq PLC (**Allied**)) to purchase all of the fully paid ordinary shares (**Montana Shares**) in Montana Group (NZ) Limited not already held or controlled by Millstream as at the date of the Offer. The terms of the Offer are set out in the offer document dated 19 July 2001, which was sent to Shareholders by Millstream on 20 July 2001.

**3. Target company**

The name of the target company is Montana Group (NZ) Limited (**Montana**).

**4. Directors of Montana**

The names of the directors of Montana are:

Mr Peter H. Masfen

Mr Barry G. Neville-White

Mr Gordon McK. Cairns

Mr Peter B. Coote

Mr Peter V. Hubscher

Dr Hylton LeGrice

Mr Bryan W. Mogridge.

**5. Ownership of equity securities of Montana**

Schedule 1 to this Statement sets out the number, designation and percentage of the equity securities of Montana held or controlled by each director or senior officer of Montana (a **Director** or **Senior Officer**, respectively) and their associates and any other person who, to the knowledge of Montana, holds or controls more than 5% of any class of equity securities of Montana (referred to in Schedule 1 as a "substantial security holder").

There are no equity securities of Montana that have, during the 2-year period ending on the date of this Statement, been issued to the Directors and Senior Officers or their associates or in which the Directors and Senior Officers or their associates have, during the 2-year period ending on the date of this Statement, obtained a beneficial interest under any employee share scheme or other remuneration arrangement.

**6. Trading in equity securities of Montana**

Schedule 2 to this Statement sets out the number and designation of equity securities of Montana acquired or disposed of by each Director or Senior Officer and their associates during the 6-month period before 3 August 2001 (being the latest practicable date before the date of this Statement), including the consideration for, and the date of, each such transaction.

## **7. Acceptance of offer**

Messrs Masfen, Neville-White, Coote and Mogridge advise that it is their intention to accept the Offer in respect of all of the Montana Shares held or controlled by them as set out in Schedule 1, unless, before they have accepted, a full takeover offer for all the Montana Shares is made by another party at a price higher than \$4.80 per share and is otherwise on no less favourable terms than the Offer.

However, consistent with the recommendation of the Independent Directors at paragraph 15 below, these Directors intend to delay sending their acceptances under the Offer for as long as possible in order to give themselves the opportunity to assess:

- the likelihood of Millstream being able to satisfy the minimum acceptance condition in the Offer; and
- the merits of any competing offer that may be made and compare any such offer to the Offer.

## **8. Ownership of equity securities of Millstream**

No Director, Senior Officer or any of their associates holds or controls any equity securities of either Millstream or Allied Domecq.

## **9. Trading in equity securities of Millstream**

Neither Montana nor any Director, Senior Officer or any of their associates has acquired or disposed of any equity securities of either Millstream or Allied Domecq during the 6-month period before 3 August 2001 (being the latest practicable date before the date of this Statement).

## **10. Arrangements between Millstream and Montana**

There are no agreements or arrangements (whether legally enforceable or not) made, or proposed to be made, between Millstream (or any associates of Millstream, including Allied Domecq) and Montana (or any related company of Montana), in connection with, in anticipation of, or in response to, the Offer.

## **11. Relationship between Millstream and Directors and Senior Officers**

There are no agreements or arrangements (whether legally enforceable or not) made, or proposed to be made, between Millstream (or any associates of Millstream, including Allied Domecq) and any of the Directors or Senior Officers (or any of the directors or senior officers of any related company of Montana) in connection with, in anticipation of, or in response to, the Offer.

None of the Directors or Senior Officers are also directors or senior officers of Millstream (or any related company of Millstream, including Allied Domecq).

## **12. Agreement between Montana, and Directors and Senior Officers**

No agreements or arrangements (whether legally enforceable or not) have been made, or are proposed to be made, between Montana or any related company of Montana, and any of the Directors or Senior Officers (or their associates) or any of the directors or senior officers (or their associates) of any related companies of Montana, under which a payment or other benefit may be made or given by way of compensation for loss of office, or as to their remaining in or retiring from office in connection with, in anticipation of, or in response to, the Offer.

## **Montana Constitution**

Montana's constitution does, however, provide that Directors may receive a lump sum payment or pension in connection with cessation of office. The total amount of the payment (or the base for the pension) must not exceed the total remuneration of the Director, in his or her capacity as a director, in any three years chosen by the Board. Should any of the Directors cease to hold office as a result of the Offer succeeding, the Board may, at its discretion, make such lump sum payments to such Directors.

## **Employment Contracts**

Certain senior officers of Montana Wines Limited (a wholly-owned subsidiary of Montana) are employed under employment contracts that provide for six months' notice, or payment in lieu of notice, in the case of redundancy. In addition, if the employment contracts of these senior officers terminate as a result of redundancy these senior officers will be entitled to be paid compensation in one lump sum (based on total remuneration) of four weeks pay for the first year of service and two weeks pay for every subsequent year of service (or part thereof).

Mr Hubscher, a Director and Montana Wines Limited's managing director, is employed under an employment contract dated 23 August 2000 that provides for 12 months' notice, or payment in lieu of notice, in the case of redundancy. In addition, if Mr Hubscher's employment contract terminates as a result of redundancy, Mr Hubscher will be entitled to be paid compensation in one lump sum (based on total remuneration) of four weeks pay for the first year of service and two weeks pay for every subsequent year of service (or part thereof).

None of these employment contracts have been entered into in connection with, in anticipation of, or in response to, the Offer.

### **13. Interests of Directors and Senior Officers in material contracts of Millstream**

No Director or Senior Officer or their associates, nor any person who, to the knowledge of the Directors and Senior Officers, holds or controls more than 5% of any class of equity securities of Montana, has any interest in any material contract to which Millstream (or any related company of Millstream, including Allied Domecq) is a party.

### **14. Additional information**

In clause 6 of the Appendix to the Offer Millstream states that it holds or controls 58,017,717 Montana Shares.

Whilst the Independent Directors have not formed a view that this statement is incorrect or misleading, the Independent Directors believe that Shareholders should be aware that Lion Nathan Enterprises Limited (**Lion**) has lodged a complaint with the standing committee of the Market Surveillance Panel (the **Standing Committee**) of the New Zealand Stock Exchange (**NZSE**) alleging that Millstream acquired some of these Montana Shares in breach of the Listing Rules of the NZSE (the **Listing Rules**).

A hearing of the Standing Committee is proposed to be held on 13 and 14 October 2001 to consider this allegation. If this allegation is upheld, the Standing Committee could rule that some or all of the Montana Shares held by Millstream are "Defaulter's Securities" (in terms of the Listing Rules) and accordingly, Millstream is required to dispose of some or all of those Montana Shares.



## 15. Recommendation

### *Independent Directors Responsible*

The board of directors of Montana (the **Board**) has appointed a sub-committee of independent directors to attend to all matters associated with the Offer. This appointment was unanimously re-confirmed by the Board on 6 July 2001. This sub-committee comprises Messrs Neville-White, Coote, LeGrice and Mogridge (the **Independent Directors**).

Messrs Masfen and Hubscher (being executive directors of Montana) and Mr G McK. Cairns (being a director of Lion Nathan Limited) have possible conflicts of interest in respect of the Offer and therefore are not members of the sub-committee and for that reason abstain from making any recommendation to shareholders as to whether to accept or reject the Offer.

### *Recommendation of Independent Directors*

The Independent Directors believe that the Offer is fair to Shareholders because the consideration offered by Millstream (being \$4.80 per Montana Share) exceeds the assessed fair market value range (of \$4.28 to \$4.72) set out in the attached independent adviser's report prepared by PricewaterhouseCoopers (the **PwC Report**) – see pages 6 and 41 of that report.

The Independent Directors also note that:

- the Offer is an offer for all shares held by shareholders other than Millstream;
- on 25 July 2001 Lion withdrew its takeover notice relating to its proposed partial offer;
- the Offer is the only offer for Montana Shares which is currently open for acceptance.

**Subject to the comments below, the Independent Directors recommend that Shareholders accept the Offer, but that acceptances should be delayed until the latest possible date**

### *Facts Relevant to Recommendation*

- Millstream will only be able to acquire shares pursuant to the Offer if it receives acceptances in relation to shares which, together with those already held by it, confer on Millstream more than 50% of the voting rights in Montana. Millstream currently controls approximately 27% of the Montana Shares. Accordingly, before Millstream can acquire any shares under the Offer, it must receive acceptances in relation to at least 23.1% of the Montana Shares on issue.
- Lion currently holds approximately 63% of the Montana Shares. However, on 29 June a Standing Committee of the NZSE held that Lion had one month within which to sell a 19% shareholding in Montana (ie 11 August 2001), failing which the shares could be sold through the NZSE or in some other manner approved by the NZSE. This date was extended from 11 August 2001 to 17 August 2001 pursuant to a ruling of the Market Surveillance Panel of the New Zealand Stock Exchange which Montana was notified of after 5.00pm on Tuesday, 31 July 2001.
- Millstream will require acceptances in respect of a substantial proportion of the 19% of Montana Shares in order to satisfy the minimum acceptance (i.e., more than 50%) condition. Shareholders should speak to their financial or legal advisers about Millstream's prospects of receiving acceptances in respect of those Montana Shares.
- On 3 August 2001 Millstream extended the closing date for the Offer from 5.00pm on Friday 17 August 2001 to 5.00pm on Friday, 24 August 2001.
- Lion has now issued judicial review proceedings challenging the decisions of the Standing Committee. Lion has signalled that it intends to seek injunctive relief restraining Montana and the NZSE from, amongst other things, selling the 19% shareholding held by Lion pending a full hearing of Lion's proceedings. These proceedings are discussed in more detail at paragraph 24 below. **If successful in obtaining an injunction, and if Lion does not voluntarily sell the 19% shareholding – or did not sell the balance of its shareholding – this would mean that the Offer could not succeed.**

- If a Shareholder accepts the Offer, that acceptance cannot be withdrawn and the accepting shareholder cannot choose to accept another offer that is made subsequently (unless the Offer fails due to the minimum acceptances condition not being satisfied or it is withdrawn with the consent of the Takeovers Panel).
- Lion's intentions in relation to making an offer for Montana Shares are not yet known. Lion may give notice of an offer for all or some of the Montana Shares it does not already hold. The Independent Directors have received no indication whether Lion intends to make such an offer or, if so, the terms of such an offer. Shareholders should not assume that if an offer is made by Lion it will necessarily be on the same or similar terms (including price) as those contained in the takeover notice that has been withdrawn.

*When to accept*

- **So that Shareholders give themselves the opportunity to assess the merits of any competing offer made by Lion or any other party and compare any such offer to the Offer, the Independent Directors recommend that Shareholders delay sending any acceptance under the Offer for as long as possible. Once an acceptance has been given it cannot be withdrawn.**
- The Offer remains open for acceptance until and including the extended closing date of 24 August 2001 (unless extended). Shareholders should note that acceptances must be **received** by the Registrar referred to in paragraph 2.2 of the Offer no later than 5pm on 24 August 2001, and that this will mean acceptances would need to be mailed earlier than this date to be received in time. Shareholders will receive notice if the Offer is further extended and these dates change.

*Shareholders should obtain further information*

- The Independent Directors also recommend that Shareholders take their own advice from an independent financial or legal adviser in respect of the Offer as well as the possibility of a competing offer being made.
- **When and if the Independent Directors have more information about the prospects of an offer by Lion or any other party, they intend to communicate with Shareholders further.**

## 16. **Actions of Montana**

There are no material agreements or arrangements (whether legally enforceable or not) of Montana (or any related company of Montana) entered into as a consequence of, in response to, or in connection with, the Offer.

There are no negotiations underway as a consequence of, in response to, or in connection with, the Offer that relate to or could result in:

- an extraordinary transaction, such as a merger, amalgamation or reorganisation, involving Montana or any of its related companies; or
- the acquisition or disposition of material assets by Montana or any of its related companies; or
- an acquisition of equity securities by, or of, Montana or any related company; or
- any material change in the issued equity securities of Montana or the policy of the board of directors of Montana relating to distributions by Montana.

## 17. Equity securities of Montana

Montana has 214,660,528 ordinary shares on issue, being the only class of equity securities (as defined in the Takeovers Code) Montana has on issue. The rights of holders of those shares in respect of capital, distributions and voting are as follows:

- the right to an equal share with other shareholders in dividends authorised by the board of directors of Montana;
- the right to an equal share with other shareholders in the distribution of surplus assets on liquidation of Montana; and
- subject to the prohibitions contained in the Listing Rules and Montana's constitution, the right to cast one vote on a show of hands or the right to cast one vote for each share held on a poll, in each case at a meeting of shareholders on any resolution, including a resolution to:
  - appoint or remove a director or auditor;
  - alter Montana's constitution;
  - approve a major transaction;
  - approve an amalgamation of Montana; and
  - put Montana into liquidation.

The Offer is not an offer for Montana Capital Notes held by Noteholders.

## 18. Financial information

Shareholders are entitled to obtain from Montana a copy of Montana's most recent annual report (being the annual report for the period ended 30 June 2000) (the **2000 Annual Report**) by making written request of:

Mr J C Nuthall  
Company Secretary  
Montana Group (NZ) Limited  
P.O. Box 2757  
Auckland

A copy of Montana's most recent half-yearly report and half-yearly financial statements that Montana was required by the Listing Rules to send to its equity security holders, since the date of the 2000 Annual Report is reproduced in Schedule 3 to this Statement.

In 2000 Montana altered its balance date from 30 June in each year to 30 September in each year. As a consequence of this, Montana will next prepare audited financial statements for the 15 month period ending 30 September 2001. However, Montana has prepared unaudited financial statements for the 12 month period ended 30 June 2001 so that Shareholders can compare Montana's financial performance during that period with its financial performance during the 12 month period to 30 June 2000. These unaudited financial statements (as contained in the announcement made by Montana to the New Zealand Stock Exchange) are reproduced in Schedule 4.

Shareholders should note that since 30 June 2000 Montana has completed the acquisition of Corbans Wines Limited from DB Group Limited for consideration of approximately \$151,000,000 and the issue of capital notes with an aggregate principal amount of \$125,000,000. These transactions are reflected in the financial statements reproduced in Schedule 3.

Other than set out above, or as contained in the PwC Report:

- there have been no material changes in the financial or trading position or prospects of Montana since the 2000 Annual Report; and
- there is no other information about the assets, liabilities, profitability and financial affairs of Montana that could reasonably be expected to be material in the making of a decision by Shareholders to accept or reject the Offer.

**19. Independent advice on merits of offer**

PricewaterhouseCoopers, as independent adviser, has prepared a report on the merits of the Offer as required by rule 21 of the Takeovers Code. A copy of that report is attached to this Statement.

**20. Asset valuation**

***Brands***

On page 21, the PwC Report refers to a valuation of brands. The valuation was prepared by Interbrand Pacific Pty Limited and dated 30 June 1997. The basis of computation was a discounted cash flow method. The key assumption on which the valuation was based were that the brands were used for their existing use by their existing owner.

***Copy of the valuation***

A copy of the valuation referred to above is available for inspection at the registered office of Montana and a copy of the valuation will be sent to any Shareholder on making written request to:

Mr J C Nuthall  
Company Secretary  
Montana Group (NZ) Limited  
P.O. Box 2757  
Auckland

**21. Prospective financial information**

On pages 22 to 24, the PwC Report set outs and discusses unaudited 5 year forecast information about Montana. The principal assumptions on which this forecast information is based are set out in Appendix 2 to the PwC Report.

Other than the forecast financial information referred to above, this Statement does not refer to prospective financial information.

**22. Sales of unquoted equity securities under Offer**

The Montana Shares, which are the subject of the Offer, are quoted on the NZSE and the Australian Stock Exchange (**ASX**).

## **23. Market prices for quoted equity securities under Offer**

The closing price on the NZSE and the ASX of listed equity securities of Montana on:

- in respect of the NZSE:
  - 3 August 2001, being the latest practicable working day before the date on which this statement is sent to shareholders, was \$4.55; and
  - 3 July 2001, being on the last day on which the NZSE was open for business before the date on which Montana received Millstream's takeover notice, was \$4.80; and
- in respect of the ASX:
  - 3 August 2001, being the latest practicable working day before the date on which this statement is sent to shareholders, was A\$3.84; and
  - 3 July 2001, being on the last day on which the ASX was open for business before the date on which Montana received Millstream's takeover notice, was A\$3.90.

The highest and lowest closing market price of listed equity securities of Montana on the NZSE and the ASX (and the relevant dates) during the 6 months before 4 July 2001 were as follows:

- NZSE:
  - highest closing market price was \$5.05 (on 18 May and 29 June 2001); and
  - lowest closing market price was \$3.62 (on 12 February 2001); and
- ASX:
  - highest closing market price was A\$4.05 (on 17 May 2001); and
  - lowest closing market price was A\$2.85 (on 18 July 2001).

During the 6 month period referred to above Montana did not issue any equity securities or make any changes to any equity securities on issue which could have affected the market prices of Montana Shares referred to above.

On 9 March 2001 Montana announced the payment of a dividend of \$0.05 on each Montana Share. This dividend was paid on 6 April 2001. The announcement and/or payment of this dividend may have affected the market prices of Montana Shares referred to above.

The Independent Directors believe that the market price for Montana Shares has been significantly increased by the competitive takeover activity in respect of the Montana Shares involving Allied Domecq and Lion Nathan Limited.

## **24. Other information**

The Independent Directors believe the following information may be relevant to Shareholders making decisions as to whether to accept or reject the Offer, and at what point any acceptance should be given.

### ***Acceptances can only be withdrawn for non-payment***

Shareholders should be aware that the terms of the Offer state that, once given, acceptances may not be withdrawn by acceptors unless Millstream fails to pay acceptors in accordance with the Takeovers Code. This means that while the Offer remains open, Shareholders who have accepted the Offer cannot accept any other offer that is made.

Shareholders should note, however, that if Millstream increases the consideration under the Offer, Millstream must provide the increased consideration to all Shareholders whose Montana Shares are taken up, whether or not the Shareholder accepted the Offer before or after the variation was made.

### ***Minimum Acceptance Condition***

No acceptances given by Shareholders in respect of the Offer can be taken up by Millstream unless Millstream receives acceptances in respect of Montana Shares that, when taken together with the Montana Shares already held by it, confer more than 50% of the voting rights in Montana.

### ***Millstream may extend closing date of Offer***

Millstream may further extend the closing date of the Offer beyond the current 24 August 2001 closing date provided it gives notice that it wishes to do this to Montana Shareholders, Montana, the Takeovers Panel and the NZSE on or before 10 August 2001.

### ***Standing Committee's Orders relating to Lion***

On 5 June 2001 the Standing Committee found that the purchase by Lion of certain Montana Shares on 8 February 2001 breached the Listing Rules of the New Zealand Stock Exchange. As a consequence, on 29 June 2001 the Standing Committee held that Lion had one month in which to dispose of the number of Montana Shares held by it which represent 19% of the Montana Shares on issue by 28 July 2001, failing which the shares could be sold through the NZSE or in some other manner approved by the NZSE. On 16 July 2001 the Standing Committee ruled that the method by which Lion proposed to dispose of these Montana Shares did not comply with the Listing Rules or its earlier order. As a consequence of its 16 July ruling, the Standing Committee extended the time within which Lion may dispose of these Montana Shares. That extension was for the period from 12 July until the date on which the Standing Committee issued reasons for its 16 July ruling. Those reasons were issued on 25 July 2001, meaning Lion had until 11 August 2001 to dispose of the 19% shareholding.

On 31 July 2001 the Market Surveillance Panel extended further the period in which Lion may dispose of these shares from 11 August 2001 to 17 August 2001. The Independent Directors requested that the Panel revoke the extension. That request was declined on 3 August 2001.

On 2 August 2001, Lion issued court proceedings in the High Court at Auckland against the New Zealand Stock Exchange and Montana. Those court proceedings challenge all three decisions of the Standing Committee. Lion has made an interim application asking the Court to make an order restraining Montana or the NZSE from selling the 19% shareholding until after the Court has heard its case against the Standing Committee decision. The Court has not yet ruled on that interim application. A preliminary date has been allocated for the interim application hearing on 6 August 2001.

Montana understands that the New Zealand Stock Exchange will oppose Lion's court proceedings. However, if the Court proceedings do succeed or if Lion obtains an interim order, that will then reduce the likelihood that the 19% of shares will be sold prior to the expiry of Millstream's Offer, even if that Offer is extended beyond 24 August 2001. That would in turn prevent Millstream satisfying the minimum acceptance condition in the Offer.

### ***Lion's takeover notice***

On 17 July 2001 the Takeovers Panel ruled that it was not satisfied that the intended conduct of Lion (as evidenced by the Lion Notice and Lion's subsequent public statements) would comply with the Takeovers Code and has issued a restraining order restraining Lion from acquiring any Montana Shares or any interest in or rights relating to Montana Shares until 14 August unless in compliance with the Takeovers Code. On 24 July 2001 Lion notified Montana that it would not be proceeding with the proposed takeover offer to which its 1 July 2001 takeover notice related.

In this context Shareholders should note the comments of the Independent Directors in paragraph 15 of this Statement as well as the comments of PricewaterhouseCoopers in section 5 of the PwC Report.

## **25. Approval of this target company statement**

This target company statement has been approved by the Independent Directors of Montana who have been delegated with authority by the Board of Montana to deal with all matters relating to the Offer.

### **Interpretation**

Words and expressions defined in the Takeovers Act or the Takeovers Code and not otherwise defined in this Statement have the same meaning when used in this Statement, and in this statement:

**\$** means New Zealand dollars;

**A\$** means Australian dollars;

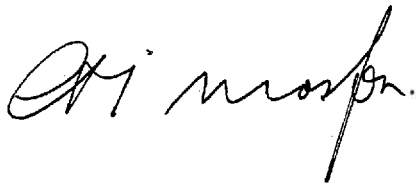
**Shareholders** means the shareholders of Montana who are the subject of the Offer by Millstream;

**Takeovers Act** means the Takeovers Act 1993; and

**Takeovers Code** means the Takeovers Code approved by the Takeovers Code Approval Order 2000.

Where any information required by Schedule 2 of the Takeovers Code is not applicable, no statement is made regarding that information.

To the best of our knowledge and belief, after making proper inquiry, the information contained in or accompanying this statement is, in all material respects, true and correct and not misleading, whether by omission of any information or otherwise, and includes all the information required to be disclosed by Montana under the Takeovers Code.



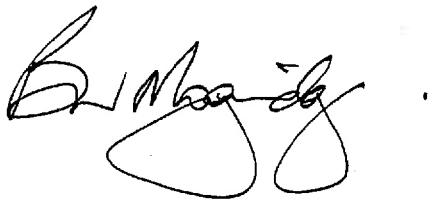
---

P H Masfen, Executive Chairman (and, in accordance with the Takeovers Code, the person fulfilling the role of chief executive officer for Montana Group (NZ) Limited)



---

J C Nuthall, Company Secretary (and, in accordance with the Takeovers Code, the person fulfilling the role of chief financial officer for Montana Group (NZ) Limited)



---

B W Mogridge, Director



---

B G Neville-White, Director



---

P B Coote, Director



---

Dr H LeGrice, Director



\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 0675  
CONNECTION TEL 1093077022  
SUBADDRESS  
CONNECTION ID ALISTAIR LAWRENE  
ST. TIME 09/08 12:14  
USAGE T 10'12  
PGS. SENT 16  
RESULT OK

□ LEVEL 12, RESERVE BANK BUILDING  
2 THE TERRACE, PO BOX 1171, WELLINGTON  
phone: 64 4 471 4618, fax: 64 4 471 4619  
email: takeovers.panel@takeovers.govt.nz  
website: www.takeovers.govt.nz □



TAKEOVERS PANEL

Ref: 730-000 / #30209

## FACSIMILE TRANSMISSION

		Fax No.
To	: Mr C. Giffney Mr D.O. Jones Mr K.J. O'Connor Mr A Lawrence	021 630 153 (09) 367 8799 499 6483 09 307 7022
DATE	: 9 August 2001	
FROM	: Kerry Morrell	
TOTAL PAGES	: 16	
(incl. this page)		

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## **MONTANA TARGET STATEMENT DATE / MONTANA DEFENSIVE TACTICS**

Please find attached papers for a meeting of the Division to be held at **2.00 p.m. today**. The dial in number is 083033 and the PIN is 305308.

Regards

  
Kerry Morrell

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 0674  
CONNECTION TEL 14996483  
SUBADDRESS  
CONNECTION ID KEVIN O'CONNOR  
ST. TIME 09/08 12:04  
USAGE T 10'08  
PGS. SENT 16  
RESULT OK



TAKEOVERS PANEL

□ LEVEL 12, RESERVE BANK BUILDING  
2 THE TERRACE, PO BOX 1171, WELLINGTON  
phone: 64 4 471 4618, fax: 64 4 471 4619  
email: takeovers.panel@takeovers.govt.nz  
website: www.takeovers.govt.nz □

Ref: 730-000 / #30209

**FACSIMILE TRANSMISSION**

		Fax No.
To	: Mr C. Giffney	021 630 153
	: Mr D.O. Jones	(09) 367 8799
	: Mr K.J. O'Connor	499 6483
	: Mr A Lawrence	09 307 7022
DATE	: 9 August 2001	
FROM	: Kerry Morrell	
TOTAL PAGES	: 16	
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Regards

Kerry Morrell

\*\*\*\*\*  
\*\*\* ERROR TX REPORT \*\*\*  
\*\*\*\*\*

TX FUNCTION WAS NOT COMPLETED

TX/RX NO 0673  
CONNECTION TEL 1021630153  
SUBADDRESS  
CONNECTION ID COLIN GIFFNEY  
ST. TIME 09/08 11:50  
USAGE T 13'30  
PGS. SENT 15  
RESULT NG



TAKEOVERS PANEL

□ LEVEL 12, RESERVE BANK BUILDING  
2 THE TERRACE, PO BOX 1171, WELLINGTON  
phone: 64 4 471 4618, fax: 64 4 471 4619  
email: takeovers.panel@takeovers.govt.nz  
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Ref: 730-000 / #30209

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		Fax No.
To	Mr C. Giffney Mr D.O. Jones Mr K.J. O'Connor Mr A Lawrence	021 630 153 (09) 367 8799 499 6483 09 307 7022
DATE	: 9 August 2001	
FROM	: Kerry Morrell	
TOTAL PAGES	: 16	
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Regards

Kerry Morrell

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 0672  
CONNECTION TEL 1093678799  
SUBADDRESS  
CONNECTION ID DAVID JONES  
ST. TIME 09/08 11:42  
USAGE T 07'14  
PGS. SENT 16  
RESULT OK

□ LEVEL 12, RESERVE BANK BUILDING  
2 THE TERRACE, PO BOX 1171, WELLINGTON  
phone: 64 4 471 4618, fax: 64 4 471 4619  
email: takeovers.panel@takeovers.govt.nz  
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TAKEOVERS PANEL

Ref: 730-000 / #30209

## FACSIMILE TRANSMISSION

		<b>Fax No.</b>
<b>To</b>	: Mr C. Giffney Mr D.O. Jones Mr K.J. O'Connor Mr A Lawrence	021 630 153 (09) 367 8799 499 6483 09 307 7022
<b>DATE</b>	: 9 August 2001	
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Regards

Kerry Morrell

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 0678  
CONNECTION TEL 1093774275  
SUBADDRESS  
CONNECTION ID  
ST. TIME 09/08 12:28  
USAGE T 07'39  
PGS. SENT 12  
RESULT OK

*Resend some pages L. Colm.*

□ LEVEL 12, RESERVE BANK BUILDING  
2 THE TERRACE, PO BOX 1171, WELLINGTON  
phone: 64 4 471 4618, fax: 64 4 471 4619  
email: takeovers.panel@takeovers.govt.nz  
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TAKEOVERS PANEL

Ref: 730-000 / #30209

**FILE COPY****FACSIMILE TRANSMISSION**

		<b>Fax No.</b>
<b>To</b>	: Mr C. Giffney Mr D.O. Jones Mr K.J. O'Connor Mr A Lawrence	021 630 153 (09) 367 8799 499 6483 09 307 7022
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