

TAKEOVERS PANEL

Presentation by Chairman,
David Jones



Panel Update

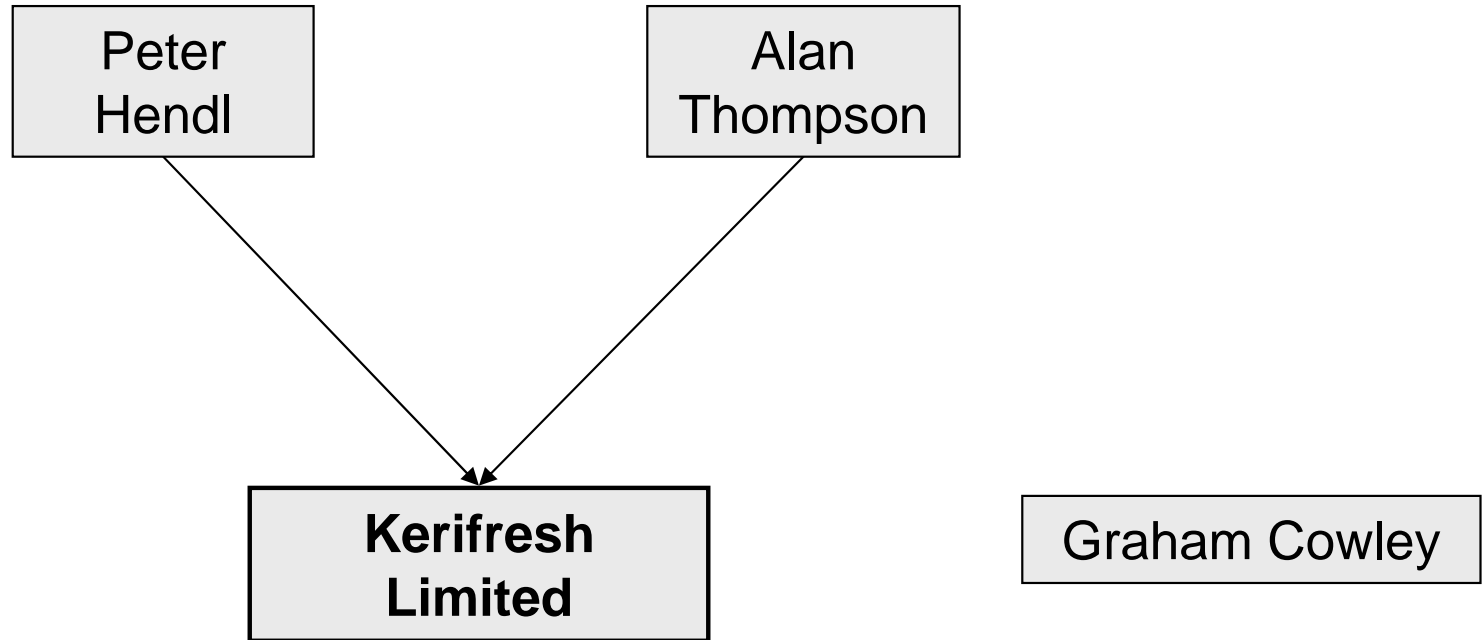
- Schemes of arrangement / Amalgamations
- Truth in takeovers
- Further technical amendments
- Kerifresh case study



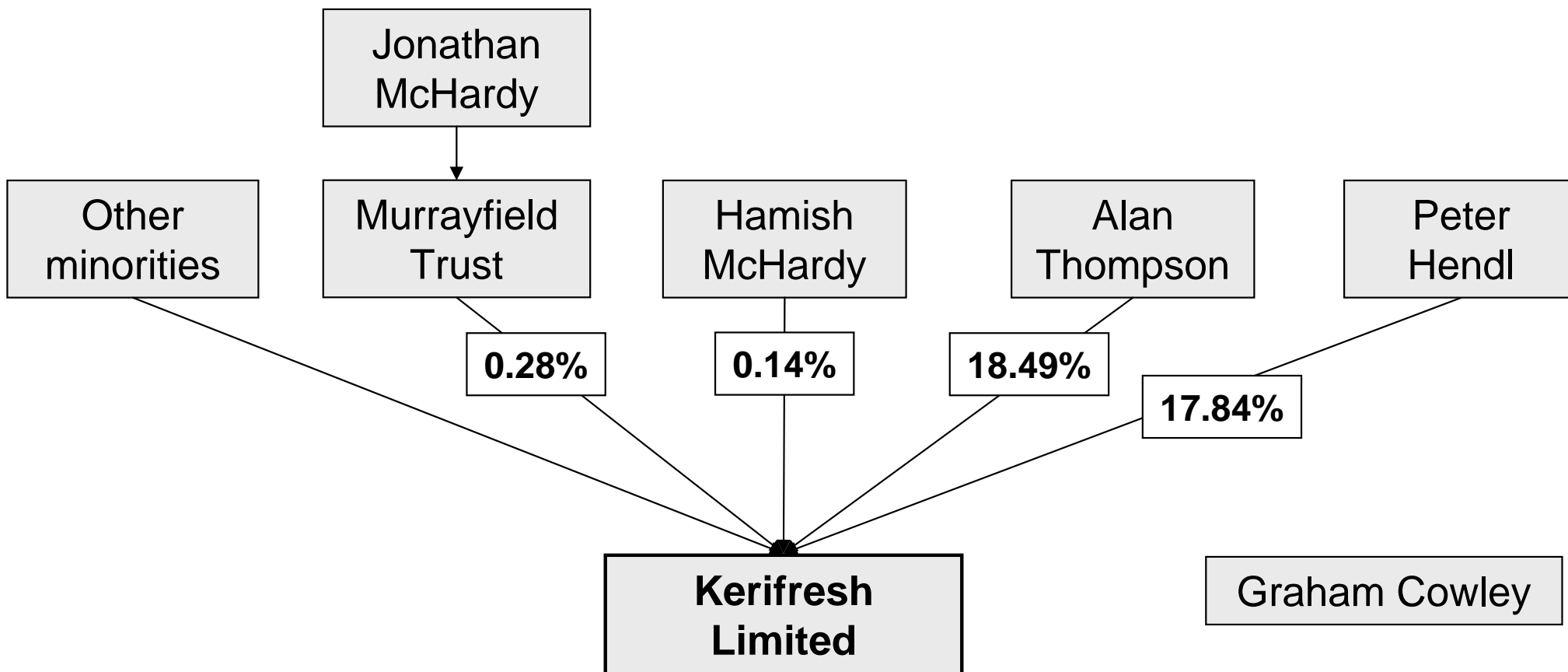
Kerifresh – Facts and Panel Determinations

- 1 October 2007
- T&G takeover notice to Kerifresh
- T&G complains to Panel

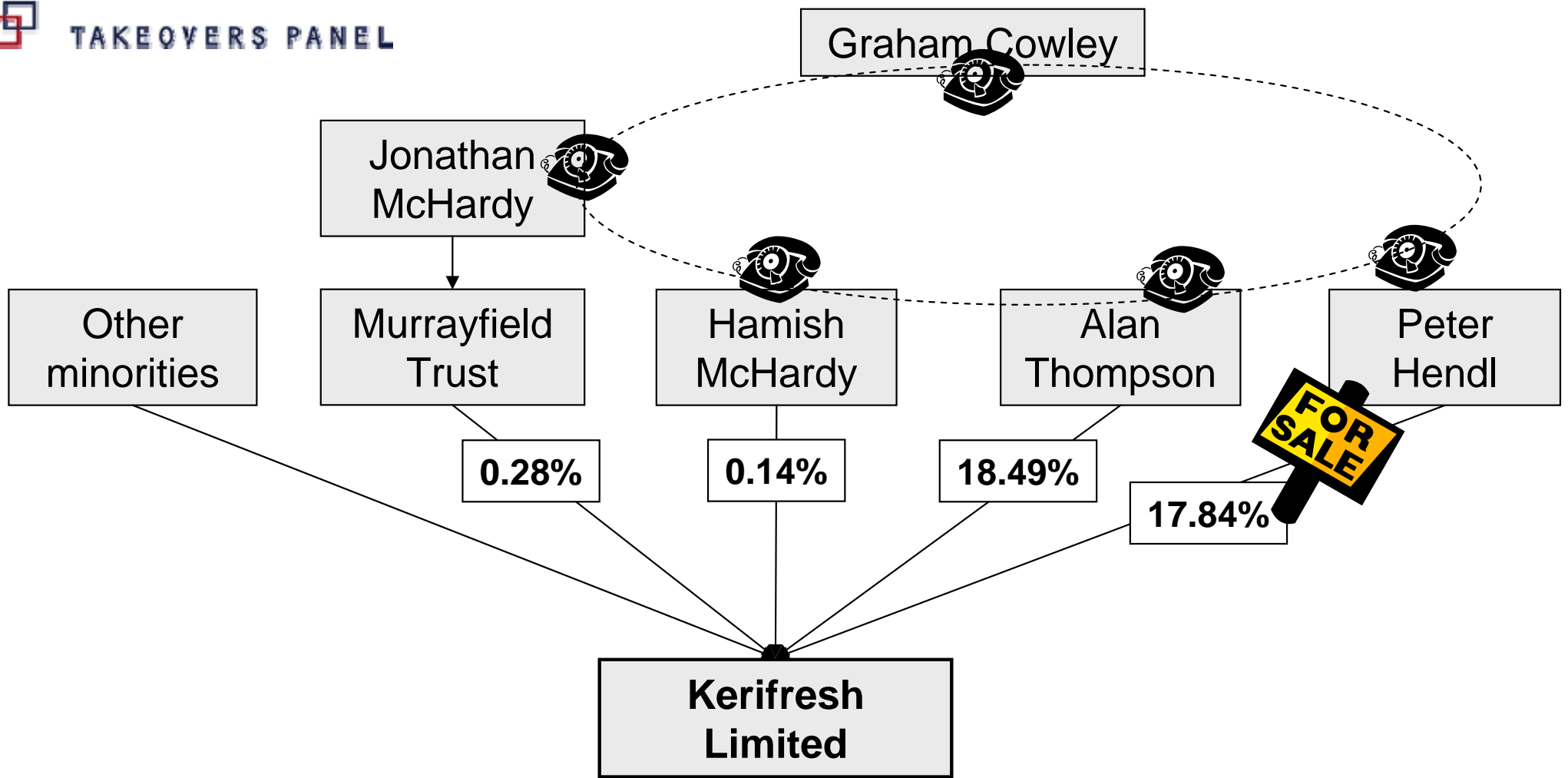
- 2 formal enquiries
- Determinations that parties breach Code



1992



1 July 2001



Early 2002

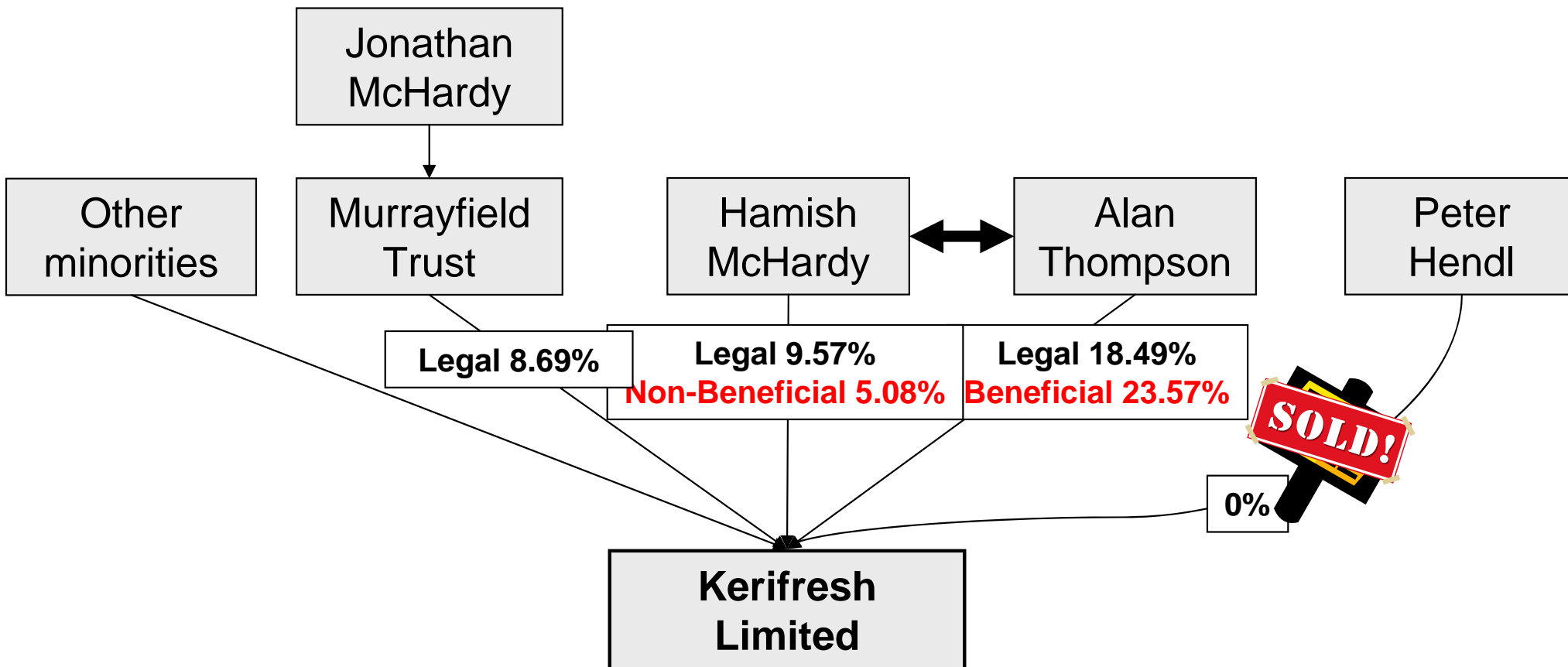


Condition of Hamish's investment

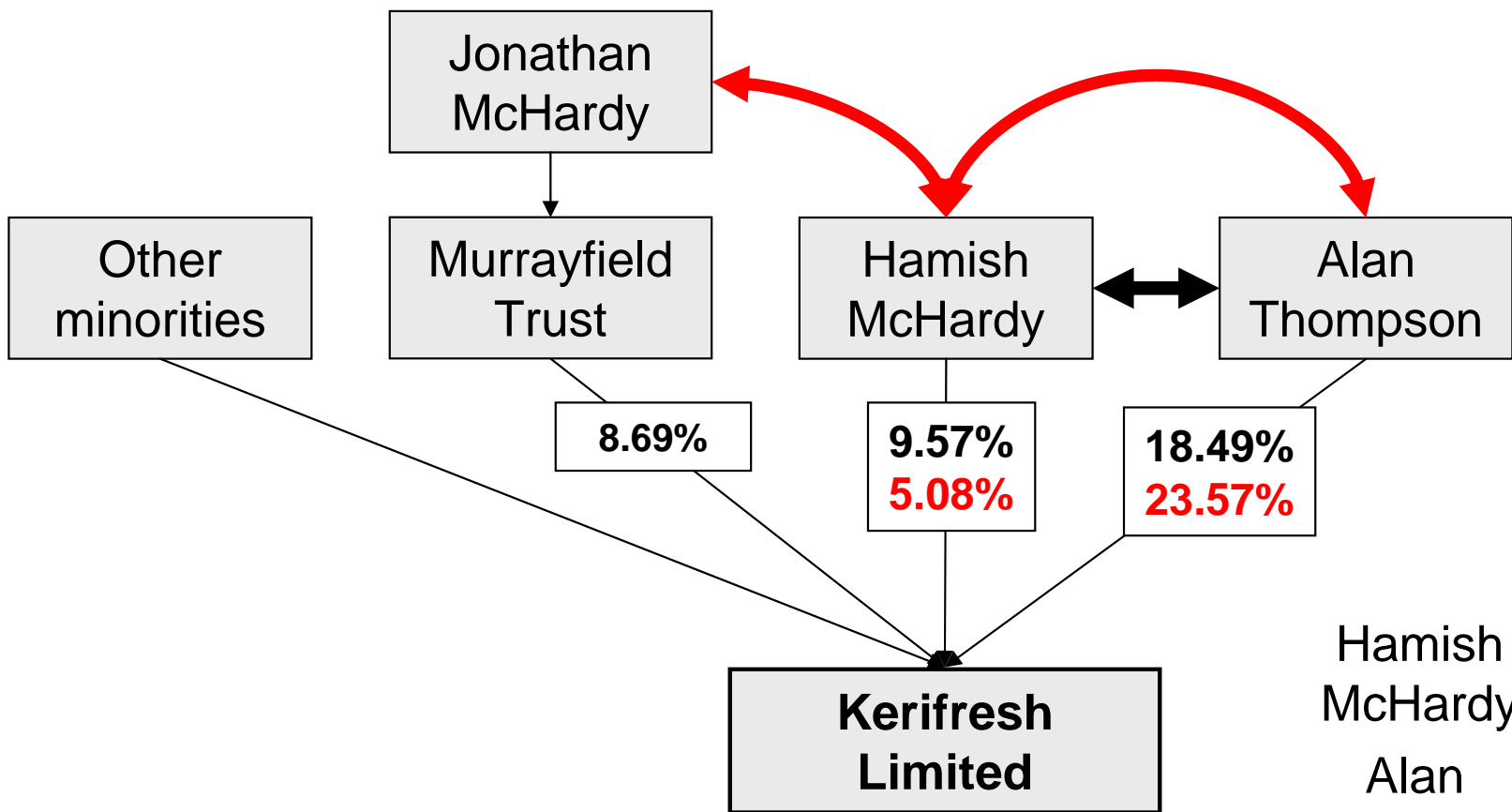
- Thompson “to have some skin in the game”

Warehousing agreement

- Thompson loan to Hamish to purchase 361,000 shares (5.08%)
- Interest free
- Repayable on demand
- Economic benefit to Thompson
- Satisfaction by transfer of shares
- Voting rights to shares not addressed

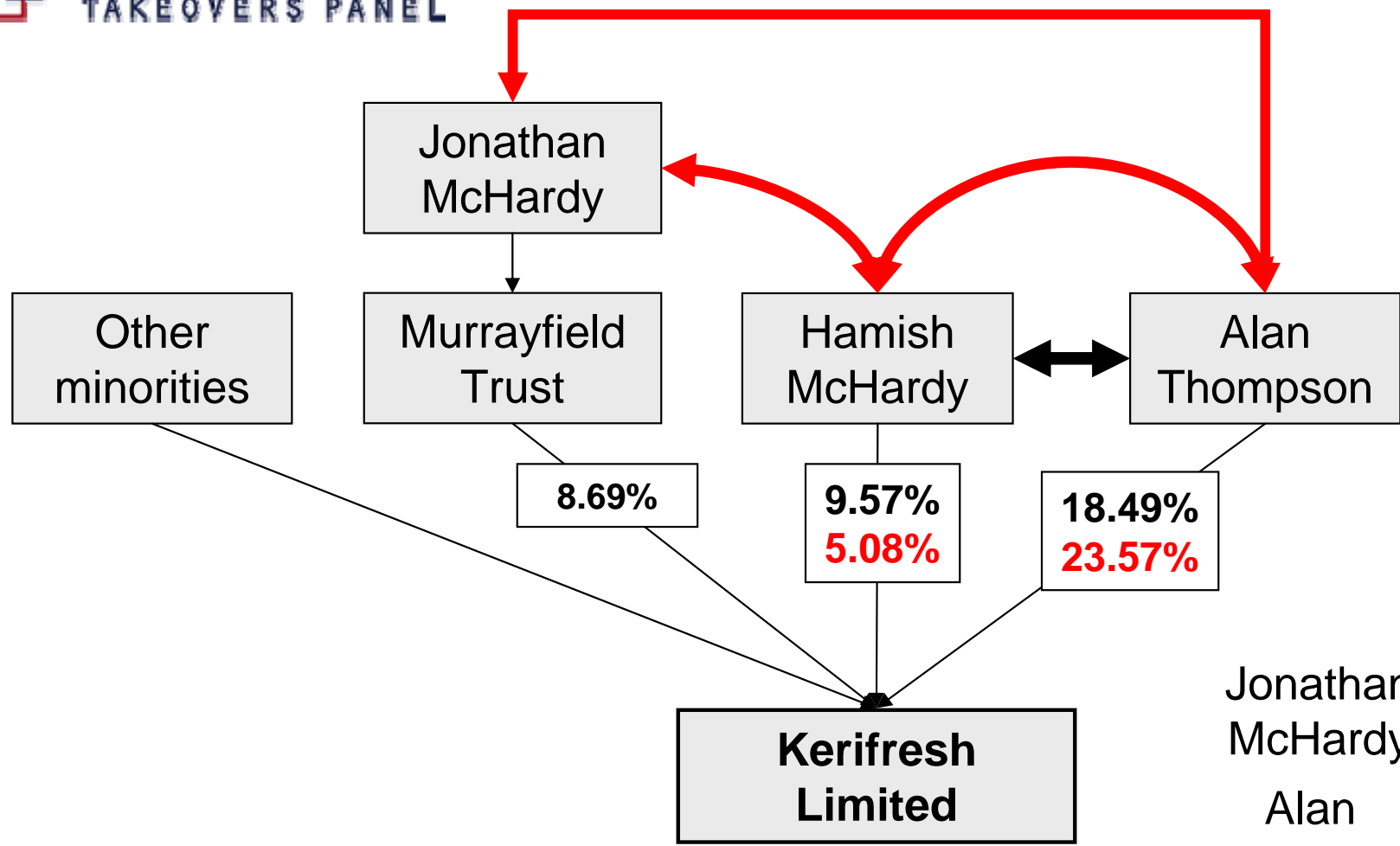


29 May 2002



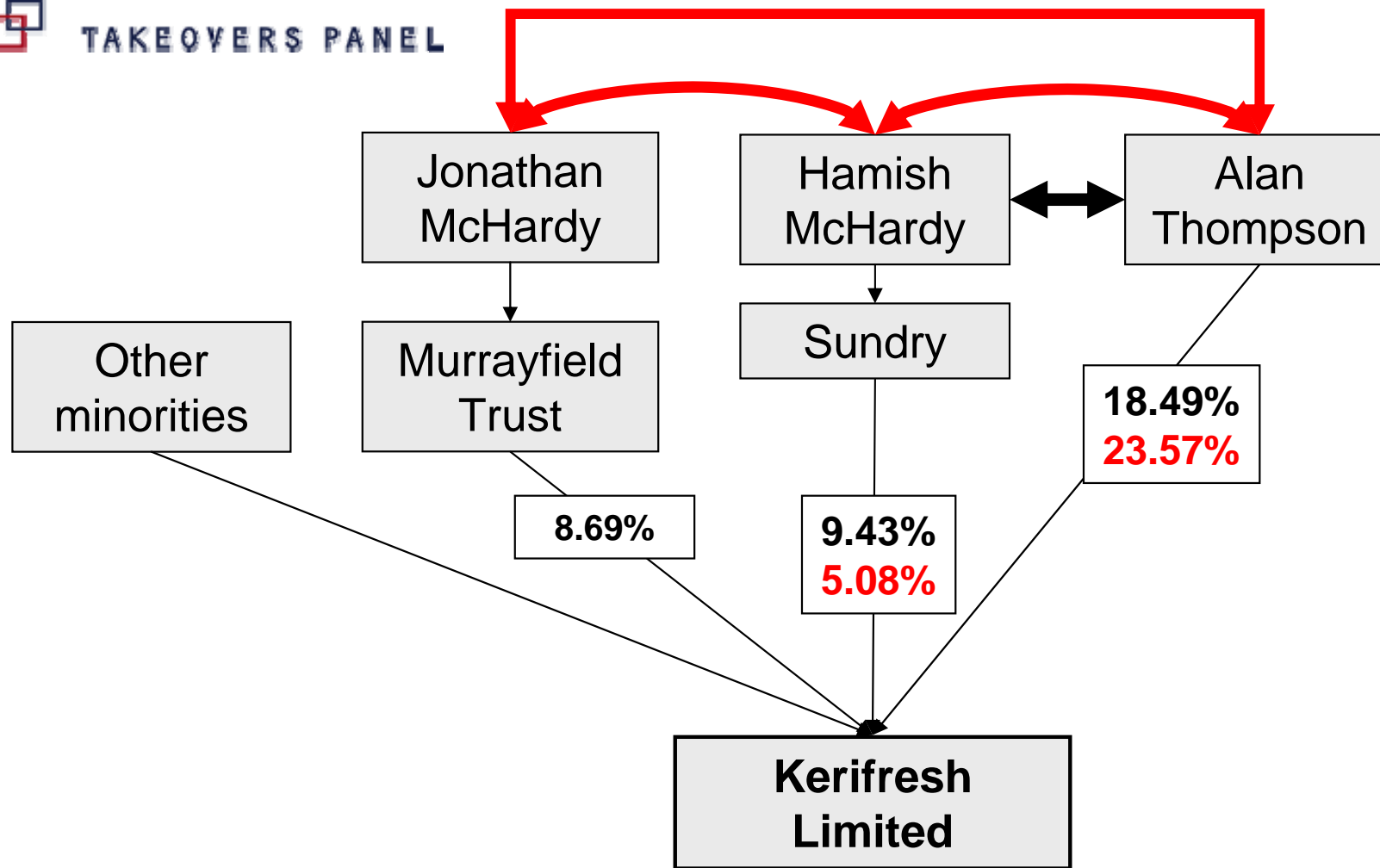
Hamish McHardy	9.57%
Alan Thompson	+ 18.49%
Jonathan McHardy	+ 8.69%
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	36.75%

29 May 2002

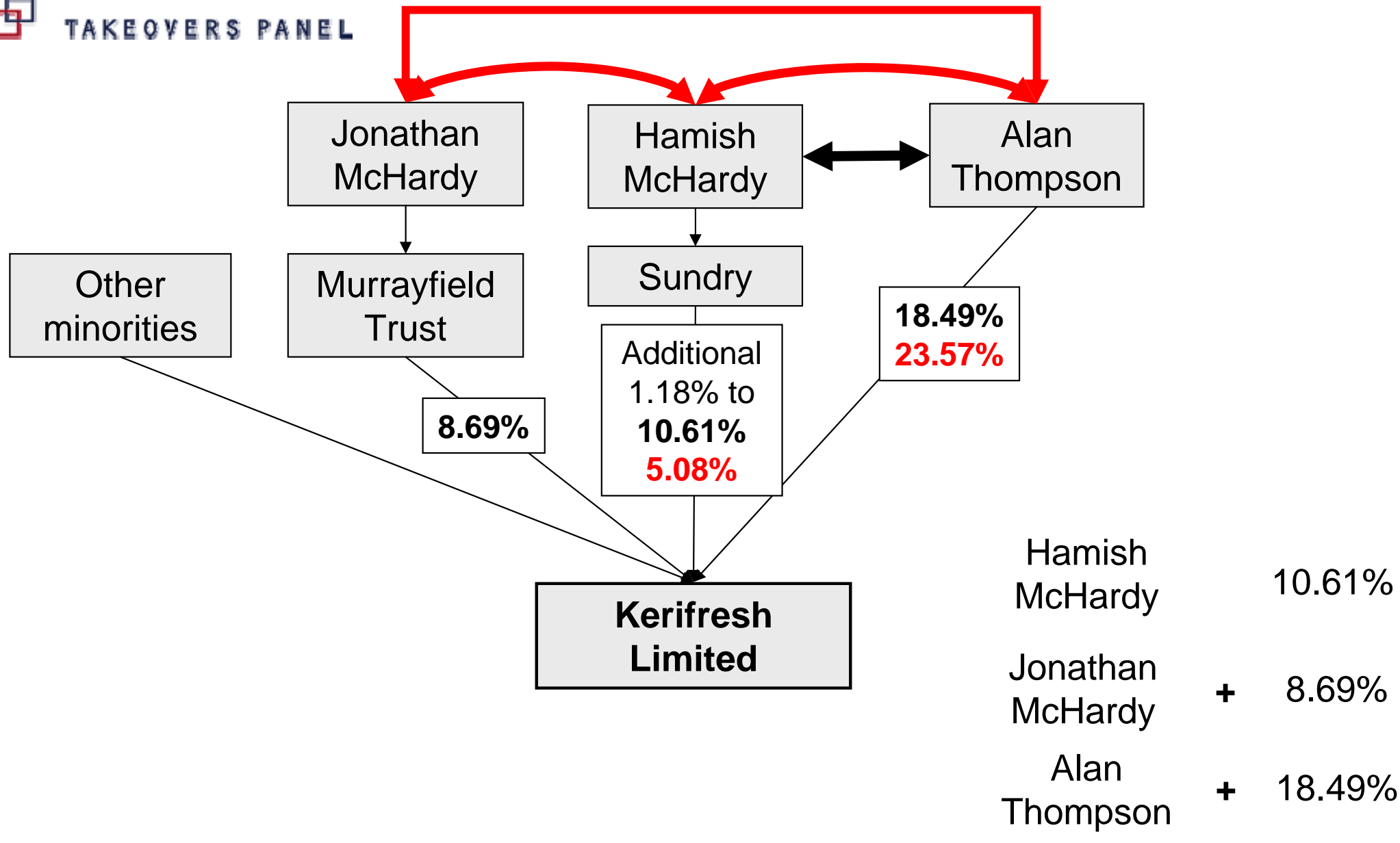


Jonathan McHardy		8.69%
Alan Thompson	+	18.49%
Hamish McHardy	+	9.57%
		<hr/>
		36.75%

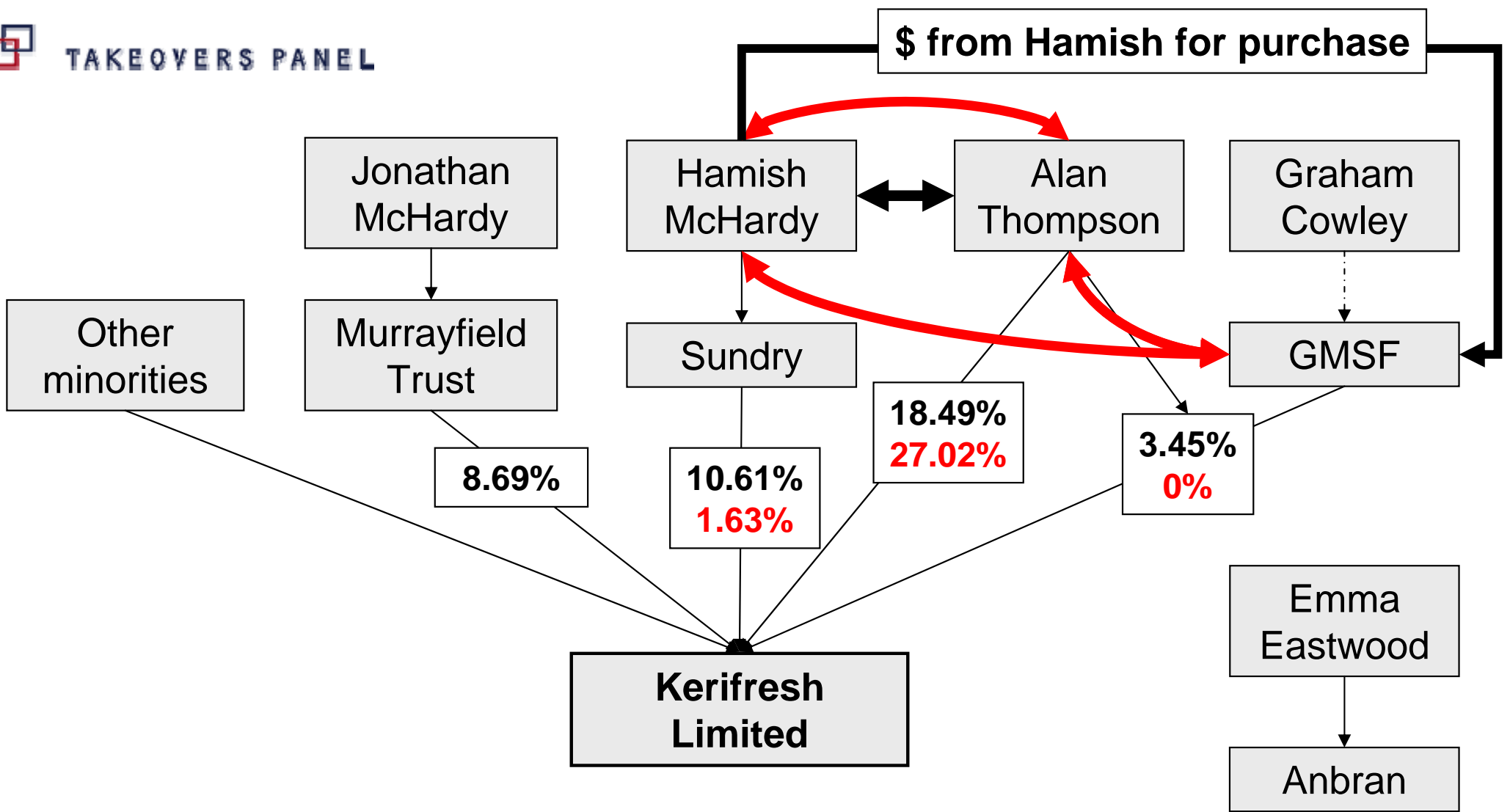
29 May 2002



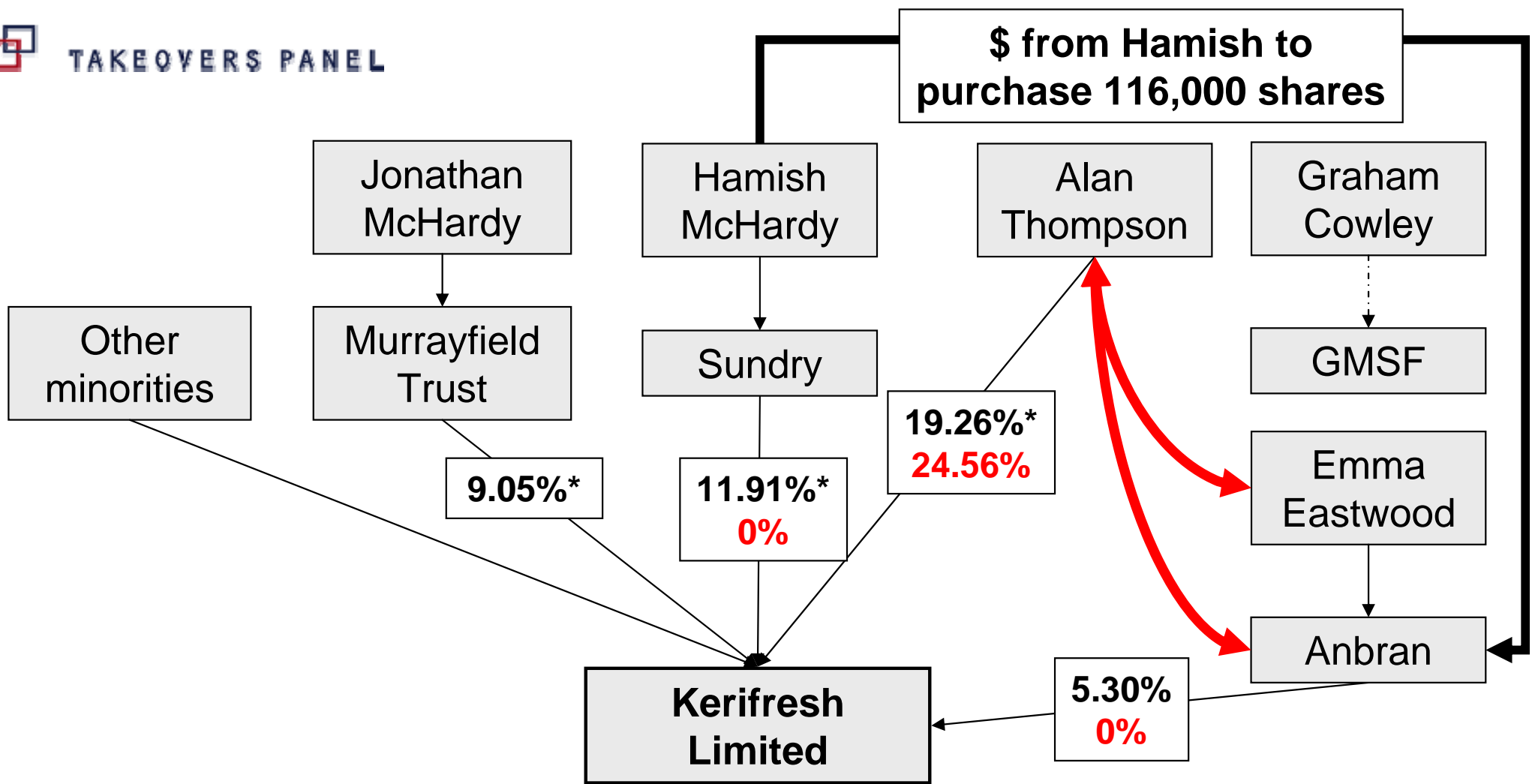
23 September 2002



August & September 2003



June 2004 - July 2005



31 October & 31 December 2005

Emma Eastwood / Anbran 5.30%

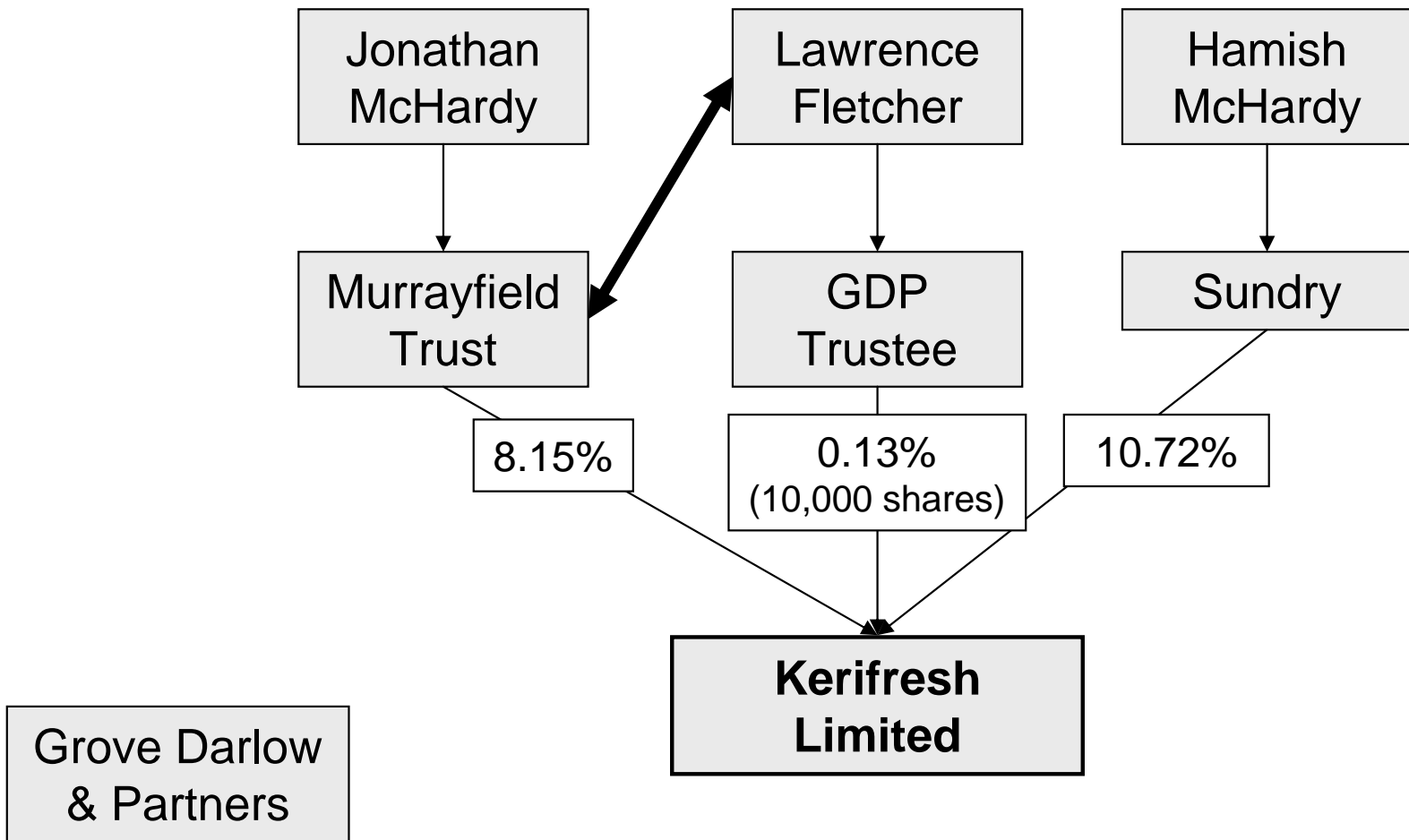
Alan Thompson +19.26%

24.55%

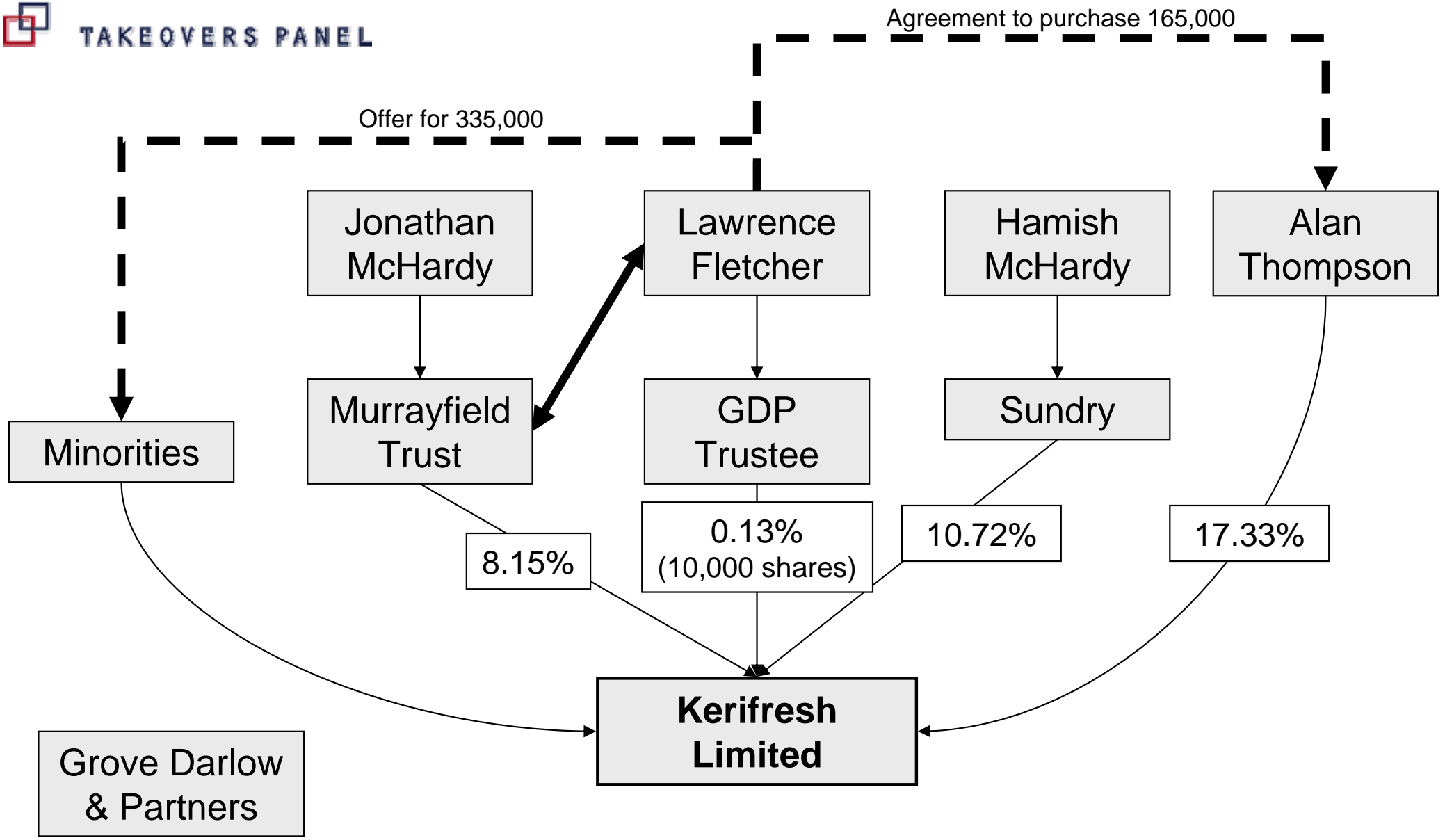
*voting control increased as a result of share buyback



- **18 October 2007 - Lawrence Fletcher makes an offer for 335,000 shares**
- **19 October 2007 - T&G second complaint to the Panel**
- **Allegation that Fletcher, Jonathan and Hamish were associates.**
- **If associates, acquisition would in aggregate exceed 20%**



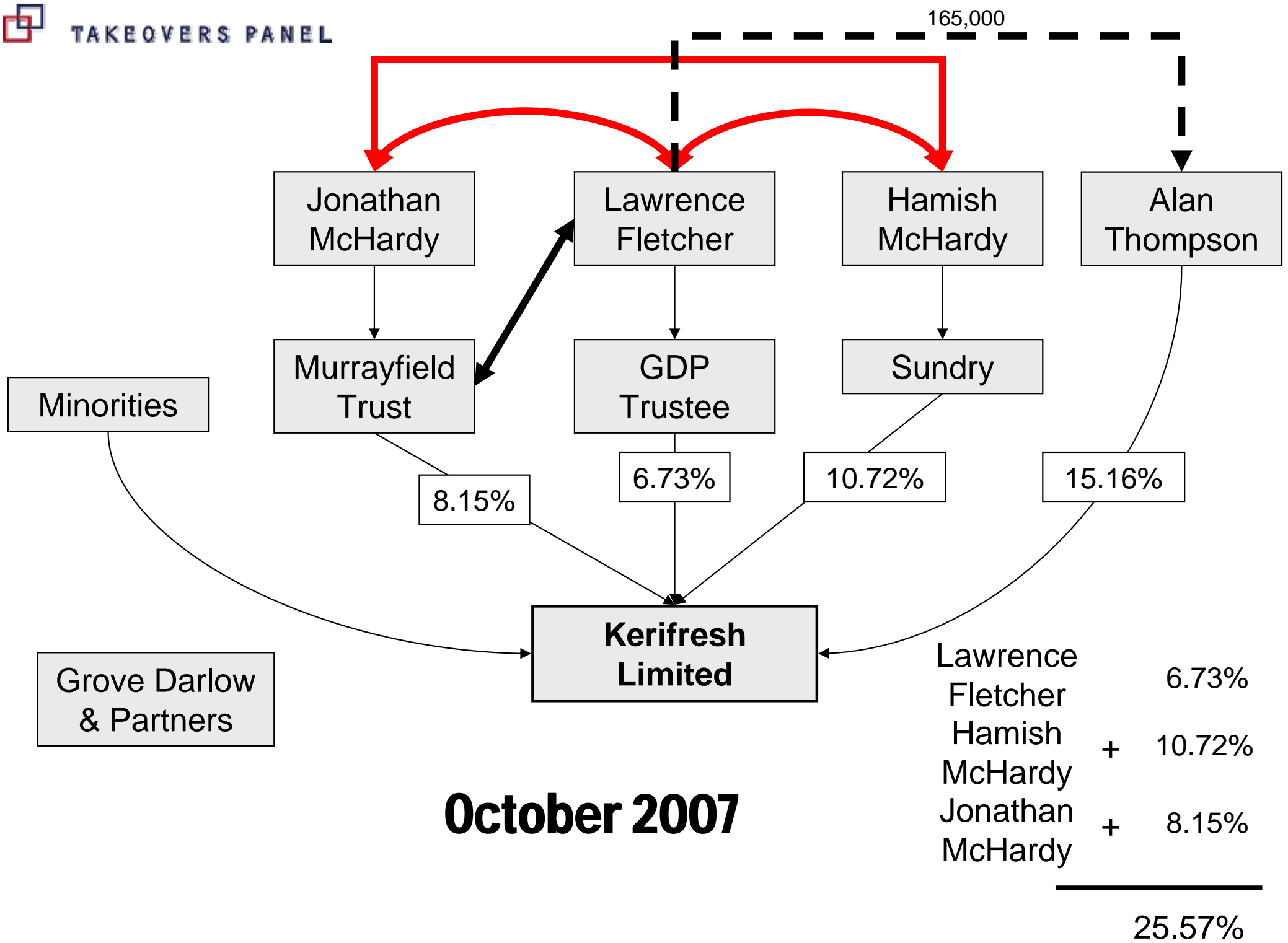
August 2007



October 2007



165,000



October 2007

Lawrence Fletcher		6.73%
Hamish McHardy	+	10.72%
Jonathan McHardy	+	8.15%

25.57%

Timeline – 1st s32 meeting

Mon, 1 Oct 2007	<ul style="list-style-type: none">Ⓣ T&G takeover noticeⓉ T&G complaint
Wed, 10 Oct 2007	<ul style="list-style-type: none">Ⓣ Panel calls s32 meetingⓉ Restraining orders made prohibiting persons allegedly in breach from acquiring, disposing or voting Kerifresh shares
Tu, 16 Oct 2007	<ul style="list-style-type: none">Ⓣ Panel holds s32 meeting
Thu, 18 Oct 2007	<ul style="list-style-type: none">Ⓣ DeterminationⓉ Statement of reasonsⓉ Restraining orders continued, prohibiting persons found in breach from acquiring, disposing or voting Kerifresh shares

Timeline – 2nd s32 meeting

Fri, 19 Oct 2007	Ⓣ T&G 2nd complaint
Tu, 30 Oct 2007	Ⓣ Panel calls 2nd s32 meeting Ⓣ Restraining orders made, prohibiting persons allegedly in breach from acquiring, disposing or voting Kerifresh shares
Wed, 7 Nov 2007	Ⓣ Panel holds 2nd s32 meeting
Fri, 9 Nov 2007	Ⓣ Determination Ⓣ Restraining orders continued, prohibiting persons found in breach from acquiring, disposing or voting Kerifresh shares
Thu, 22 Nov 2007	Ⓣ Statement of reasons

Panel's remedies options

Panel's powers

Negotiated solution

- Supported by enforceable undertaking
- Can approximate some Court orders

Court ordered solution

- Only Court can impose some orders e.g.
Forfeiture, unilateral cancellation of contracts

General principles

Sell down

- Most common remedy
- Addresses Code's concern with aggregation of voting rights
- Efficient, timely
- Condition – non-associates, no voting, fixed timing

Court Remedy

- Negotiated remedy fails
- Penal sanctions policy – e.g. forfeiture

Kerifresh Remedy

Some type of sell-down appropriate

- No deliberate breach of Code
- Takeover imminent
- Cost of Court disproportionate
- Court could leave Kerifresh in uncertain control position for a long time

Sell-down problematic

- Kerifresh shares illiquid
- 5% of Kerifresh traded in 2007 vs. 21% acquired in breach
- BUT more than 1 party interested in making a takeover offer

Panel solution

- Transfer to independent trustee for sale of shares acquired in breach by open auction

Kerifresh Remedy

Independent trustee:

- Best price duty
- Lock-up allowed for 21% subject to full offer at \$2.00 and 50% minimum acceptance condition

Auction rules:

- “Open” Auction – details of bids but not identity to be available
- A person in breach who acquired any shares required to make full takeover offer

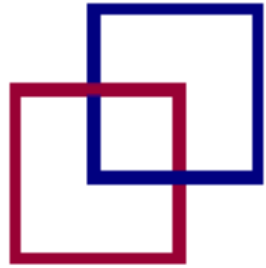
Kerifresh Remedy

Wed, 19 Dec 2007	Parties (not T&G) agree to Panel's proposal
Sun, 23 Dec 2007	Shares transferred to Custodial Services as nominee for ABN AMRO Craigs
Fri, 18 Jan 2008	Auction opens
Wed, 23 Jan 2008	Auction closes T&G wins

Kerifresh Remedy

Panel consideration of Kerifresh remedy

- Timely
- Cost efficient
- Provided a platform for transparent change in control in a competitive environment
- Small shareholders being provided with exit from an illiquid security at a competitive market price



TAKEOVERS PANEL

Presentation by Chairman,
David Jones