



Quarterly Bulletin on Takeovers Matters

(Second Quarter 2019)

For the benefit of Takeovers Forum members, we have compiled various information and updates relating to takeover matters extracted from the official site of each Forum member. This bulletin will be published quarterly to serve as a centralized information hub on takeover matters.

(Please click on the title of each item to go to the full write-up at the original source)

SECURITIES & FUTURES COMMISSION, HONG KONG

Takeovers Bulletin - Issue No. 49 - June 2019

- Public criticism in relation to Hopewell Holdings Limited
- Reminder to submit Code documents for vetting
- PN 20 revised to require updates to list of financial advisers after close of offer
- Quarterly update on the activities of the Takeovers Team

Public criticism in relation to breaches of the dealing disclosure obligations during the offer period for Hopewell Holdings Limited

10 April 2019 - The Executive publicly criticizes Kwok Tse Wah (“Mr Kwok”) for breaching Rules 21.2 and 22 of the Code on Takeovers and Mergers (“Takeovers Code”) as a result of his failure to: (i) seek the Executive’s consent prior to selling shares in Hopewell Holdings Limited during an offer period; and (ii) disclose his dealings in the shares of Hopewell Holdings Limited.

Mr Kwok accepts that he breached the Takeovers Code and agrees to the disciplinary action taken against him under section 12.3 of the Introduction to the Takeovers Code.

TAKEOVERS PANEL OF AUSTRALIA

Revised Panel Fees

27 June 2019 - The fee payable for Panel applications is listed in Schedule 1 of the Corporations (Fees) Regulations 2001 (Cth) as amended.

Following amendments made in Treasury Laws Amendment (ASIC Fees) Regulations 2018 (Cth), the application fee is no longer subject to annual indexation, and as such there will be no increase effective 1 July 2019.

Appointment of Panel Counsel

14 June 2019 - Ms Tania Mattei has been appointed as Counsel to succeed Mr Bruce Dyer who finished with the Panel at the end of April 2019 to pursue other directions.

Tania has been Deputy Counsel at the Panel since September 2015 and was previously Counsel at Shearman & Sterling LLP in New York. Tania has a wealth of experience in advising on large cross border M&A deals and at the Panel.

Donaco International Limited

13 June 2019 - The Panel, Shirley In't Veld, Robert McKenzie and John O'Sullivan (sitting President), made a declaration of unacceptable circumstances in relation to the affairs of Donaco International Limited. The application concerned an acquisition of almost 10% of Donaco shares by a lender in circumstances where the lender's right to enforce a security interest over 27.25% of Donaco had been triggered. The Panel declared the circumstances unacceptable as the almost 10% acquisition did not take place in an efficient, competitive and informed market and ordered the acquired shares to be vested in ASIC for sale.

Australian Whisky Holdings Limited

28 May 2019 - The Panel, Bill Koeck, Rory Moriarty and Karen Phin (sitting President), declined to conduct proceedings on an application by Australian Whisky Holdings Limited in relation to its affairs. The application concerned whether an association and voting agreement existed between certain shareholders of Australian Whisky Holdings in relation to a requisition under s249D1 to remove four directors and appoint two directors. The Panel considered that there was no reasonable prospect that it would declare the circumstances unacceptable based on the probative material provided and given the delay in making the application in the light of the timing of the requisition meeting.

Yowie Group Ltd 01 & 02

21 May 2019 - The Panel, Robin Bishop (sitting President), Tara Page and Neil Pathak made a declaration of unacceptable circumstances in relation to the affairs of Yowie Group Ltd. The two applications (heard together) concerned contraventions of s606 and the substantial holder provisions by Wilson Asset

Management (International) Pty Limited (WAMI) and contraventions of s606 by Keybridge Capital Limited. The Panel declared the circumstances unacceptable as they constituted or gave rise to contraventions of s606 and, in the case of WAMI, s671B. The Panel made orders, which included vesting shares in ASIC for sale and requiring corrective disclosure.

Print Mail Logistics Limited

26 April 2019 - The Panel, Richard Hunt (sitting President), Ian Jackman SC and John McGlue declined to conduct proceedings on an application by Southland Stokers Pty Ltd in relation to the affairs of Print Mail Logistics Limited. The application concerned whether a director of Print Mail was associated with his son, a fellow director of Print Mail and a Print Mail shareholder. The Panel considered that there was an insufficient body of material to justify the Panel making further enquiries in relation to the alleged associations

Riversdale Resources Limited

15 April 2019 - The Panel, Paula Dwyer, Jeremy Leibler and Ron Malek (sitting President), declined to conduct proceedings on an application by Riversdale Resources Limited in relation to its affairs. Riversdale was subject to an off-market takeover bid by Hancock. The application concerned the disclosure of certain Canadian withholding tax requirements. Before the Panel conducted proceedings, both the bidder and target issued disclosure regarding those requirements. In the circumstances, the Panel considered that there was no reasonable prospect that it would declare the circumstances unacceptable.

Consultation Paper - Guidance Note 20 - Equity Derivatives

10 April 2019 - The Panel considers that disclosure of all long positions in equity derivatives (and any relevant interest in the underlying voting shares) over 5% promotes an efficient competitive and informed market. The Panel proposes to revise Guidance Note 20 to provide clearer guidance about the Panel's approach to Equity Derivatives.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

19-141MR Queensland lawyer found to have given false or misleading information to ASIC

17 June 2019 - Ms Mary-Anne Greaves, of Mount Sheridan, Queensland, has been sentenced by the Brisbane Magistrates' Court after earlier pleading guilty to one count of giving false or misleading information to ASIC. Ms Greaves was discharged without proceeding to conviction upon giving security in the sum of \$5,000 conditional that she be of good behaviour for a period of two years.

The prosecution of Ms Greaves, a lawyer, followed an investigation conducted by ASIC into a 2015 takeover bid by G8 Education Limited (G8 Education) for ASX-listed Affinity Education Group Limited (Affinity). The investigation included enquiries into alleged undisclosed arrangements between G8

Education and West Bridge Holdings Pty Ltd (West Bridge) for the acquisition of Affinity shares as part of the takeover bid.

NEW ZEALAND TAKEOVERS PANEL

New Board Appointment at the Takeovers Panel - May 2019

21 May 2019 - Takeovers Panel Board Chair Andy Coupe today announced the appointment of Megan Glen to the Takeovers Panel, the government's regulator of the corporate takeovers market.

Megan Glen is a Manager within the Direct Investments team at the NZ Super Fund. Prior to joining the Super Fund, Megan was an investment banker in New York with Credit Suisse and in New Zealand with FNZC. She has a broad range of experience in merger and acquisition transactions and securities offerings.

SOUTH AFRICAN TAKEOVER REGULATION PANEL

News

Mr Andile Nikani has been appointed as the Executive Director of the Takeover Regulation Panel.

The Panel's family would like to take this opportunity to congratulate Mr Nikani as he embarks on this new journey. Wishing him every success and assures him their full support.