



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP19/54

Monday, 16 September 2019

Benjamin Hornigold Limited 09 – Panel Receives Application

The Panel has received an application from Benjamin Hornigold Limited in relation to its affairs.

Details of the application, as submitted by the applicant, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

Details

On 6 September 2019, the Panel made a declaration of unacceptable circumstances in relation to the affairs of Benjamin Hornigold in *Benjamin Hornigold Limited 05, 06 & 07* (see [TP19/50](#)). The application relates to a number of the same circumstances the subject of the declaration and the following additional transactions (the **Transactions**).

On 7 May 2019, a loan arrangement between Benjamin Hornigold (as lender) and Genesis Proprietary Trading Pty Ltd (**Genesis**) (as borrower) for a loan amount of \$800,000 was novated so that the amount outstanding (including accrued, unpaid interest) was transferred from Genesis to JB Financial Group Pty Ltd (**JB Financial Group**).

On 12 June 2019,¹ a loan agreement between Benjamin Hornigold (as lender) and JB Financial Group (as borrower) for the purpose of allowing JB Financial Group to purchase 100% of the shares of Genesis was amended extending the date of repayment to 11 September 2020 and removing Benjamin Hornigold's right to convert outstanding monies under the loan into Genesis shares.²

¹ The amendment was approved at the board meeting at which all of the then directors of Benjamin Hornigold later resigned (see [TP19/50](#))

² These amendments were subject to the completion of a merger by Genesis with the Propex Group under which (a) Genesis would become a wholly owned subsidiary of PXG Holdings Pty Ltd and (b) JB Trading House Pty Ltd would become a 30% shareholder in PXG Holdings Pty Ltd

Benjamin Hornigold submits that, in the same way as the Panel has found various arrangements between Benjamin Hornigold and King's Currency Exchange Pty Ltd, Benjamin Hornigold and JB Financial Group and Benjamin Hornigold and John Bridgeman Limited to have had a material adverse effect on the market for shares of Benjamin Hornigold and have diminished the value of Benjamin Hornigold, the Transactions (separately and together with the transactions the subject of the declaration in *Benjamin Hornigold Limited 05, 06 & 07*) have had the same effect.

Benjamin Hornigold submits that the Transactions have rendered Benjamin Hornigold a less attractive acquisition target and made it less likely to attract competing proposals from potential acquirers, in essence operating as a lock-up device.

Benjamin Hornigold seeks final orders that the Transactions be declared void.

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