



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP15/18

Wednesday, 22 April 2015

Richfield International Limited – Declaration of Unacceptable Circumstances

The Panel has made a declaration of unacceptable circumstances ([Annexure A](#)) in relation to an application dated 24 March 2015 by the Australian Securities and Investments Commission in relation to the affairs of Richfield International Limited (see [TP15/013](#)).

Background

Richfield International Limited is an ASX listed company (ASX: RIS). On or about 3 April 2013, Poh Choo Lim, a director of Richfield, transferred 11,000,000 Richfield shares to Sinotrans Investment Co Limited (17.48%) and 11,500,000 Richfield shares to Grand Orient Capital Co Limited (18.28%).

On 26 February 2015, ASIC received documentation from the British Virgin Islands Financial Services Commission indicating that Siew Tze Lim has been the sole director and shareholder of each of Sinotrans and Grand Orient at all times since their incorporation. Siew Tze Lim is Poh Choo Lim's aunt.

Richfield submitted, among other things, that the shares were held by Sinotrans and Grand Orient as part of security and funding arrangements with Poh Choo Lim and two separate and unidentified Chinese financiers.

The Panel considered (among other things) that:

- contraventions of the takeovers prohibition have occurred as a result of the transfer from Poh Choo Lim to Sinotrans and Grand Orient and
- Siew Tze Lim, Sinotrans and Grand Orient have not complied with the substantial holding provisions.

Declaration

The Panel considered that the circumstances were unacceptable (see [Annexure A](#)). The Panel did not consider it against the public interest to make the declaration, and in making it had regard to the matters in s657A(3).

The Panel granted an extension of time for ASIC's application, pursuant to section 657B.

Orders

The Panel is considering what final orders to make and will publish details in due course. The interim orders remain in effect (see [TP15/014](#)).

The sitting Panel was Peter Day (Sitting President), Christian Johnston and Byron Koster.

The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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Australian Government

Takeovers Panel

ANNEXURE A
CORPORATIONS ACT
SECTION 657A
DECLARATION OF UNACCEPTABLE CIRCUMSTANCES

RICHFIELD INTERNATIONAL LIMITED

CIRCUMSTANCES

1. Richfield International Limited (**Richfield**) is an ASX listed company incorporated in Australia.
2. Sinotrans Investment Co Ltd (**Sinotrans**) and Grand Orient Capital Co Ltd (**Grand Orient**) are companies incorporated in the British Virgin Islands.
3. On 4 April 2013, Poh Choo Lim (**PC Lim**), a director of Richfield, filed an Appendix 3Y Change of Director's Interest Notice disclosing that on 3 April 2013 she disposed of 22,500,000 shares in Richfield for \$3,712,500 (16.5 cents per share) by an '*Off market sale transfer to overseas Chinese interests based investment companies*'.
4. On 5 April 2013, Sinotrans filed a Notice of Initial Substantial Holder disclosing that on 3 April 2013 it became:
 - (a) a substantial holder in Richfield and
 - (b) the registered holder of, and had a relevant interest in, 11,000,000 shares in Richfield with voting power of 17.48%.
5. On 5 April 2013, Grand Orient filed a Notice of Initial Substantial Holder disclosing that on 3 April 2013 it became:
 - (a) a substantial holder in Richfield and
 - (b) the registered holder of, and had a relevant interest in, 11,500,000 shares in Richfield with voting power of 17.49%.
6. On 3 October 2013, PC Lim filed a Form 605 Notice of Ceasing to be a Substantial Holder disclosing that on 3 April 2013:
 - (a) she ceased to be a substantial holder in Richfield and
 - (b) her relevant interest in Richfield decreased to 881,500 shares (1.4%) due to an '*Off market transfer*' of 22,500,000 shares.
7. Material provided to the Panel indicates that, on or around 3 April 2013:

- (a) Sinotrans and PC Lim entered into a security and funding arrangement with a Chinese financier, pursuant to which:
 - (i) the financier may have an interest in the shares in Richfield held by Sinotrans and
 - (ii) PC Lim is entitled to have the Richfield shares transferred back to her or direct they be sold in certain circumstances and
- (b) Grand Orient and PC Lim entered into a security and funding arrangement with a Chinese financier (which may be different to the financier in paragraph 7(a)), pursuant to which:
 - (i) the financier may have an interest in the shares in Richfield held by Grand Orient and
 - (ii) PC Lim is entitled to have the Richfield shares transferred back to her or direct they be sold in certain circumstances.
- 8. No written agreements evidencing the security and funding arrangements referred to in paragraph 7 have been provided to the Panel. Further, no details have been provided to the Panel as to the identity of the financiers.
- 9. Siew Tze Lim (**ST Lim**) is the sole shareholder and director of Sinotrans and Grand Orient and therefore has a relevant interest in the shares of those companies, and controls each of those companies.
- 10. Sinotrans holds 11,000,000 shares in Richfield and therefore has a relevant interest in those shares.
- 11. Grand Orient holds 11,500,000 shares in Richfield and therefore has a relevant interest in those shares.
- 12. No material has been provided to the Panel to establish that section 609¹ applies such that:
 - (a) ST Lim does not have a relevant interest in all the shares of Sinotrans and Grand Orient or
 - (b) Sinotrans, Grand Orient and ST Lim do not have a relevant interest in Richfield.
- 13. No material has been provided to the Panel to establish that ST Lim does not control Sinotrans and Grand Orient. Therefore Sinotrans and Grand Orient are associated under section 12(2)(a)(iii) and:
 - (a) ST Lim has a relevant interest in 35.77% of Richfield shares by operation of section 608(3)(a) and (b) and
 - (b) Sinotrans and Grand Orient have voting power of 35.77% in Richfield.
- 14. The transactions by Sinotrans and Grand Orient occurred simultaneously resulting in Sinotrans, Grand Orient and ST Lim's voting power in Richfield

¹ References are to the *Corporations Act 2001* (Cth) unless otherwise indicated

increasing from 0% to more than 20%, other than through one of the exceptions in section 611, contravening section 606.

15. In the alternative, either Sinotrans or Grand Orient's acquisition of shares in Richfield resulted in Sinotrans, Grand Orient and ST Lim's voting power in Richfield increasing from below 20% to more than 20%, other than through one of the exceptions in section 611, contravening section 606.
16. Sinotrans' substantial holder notice has failed to disclose information required by section 671B, including:
 - (a) details of the security and funding arrangement referred to in paragraph 7(a) and
 - (b) that Grand Orient was an associate of Sinotrans, the nature of that association and Grand Orient's relevant interest in Richfield.
17. Grand Orient's substantial holder notice has failed to disclose information required by section 671B, including:
 - (a) details of the security and funding arrangement referred to in paragraph 7(b) and
 - (b) that Sinotrans was an associate of Grand Orient, the nature of that association and Sinotrans' relevant interest in Richfield.
18. ST Lim has a relevant interest in 35.77% of Richfield and has failed to disclose her substantial holding in Richfield as required by section 671B.
19. Further, the failure to disclose the identity of the financiers by Sinotrans, Grand Orient, ST Lim and PC Lim was contrary to an efficient, competitive and informed market in relation to the acquisition of control of Richfield.
20. PC Lim has disclosed to the market, in her Notice of Ceasing to be a Substantial Holder on 3 October 2013, that she disposed of a substantial holding in Richfield (35.77%) but did not disclose that she had a right to have the shares held by Sinotrans and Grand Orient transferred back to her or sold at her direction in certain circumstances. This was contrary to an efficient, competitive and informed market in relation to the acquisition of control of Richfield.
21. It appears to the Panel that the circumstances are unacceptable:
 - (a) having regard to:
 - (i) the effect that the Panel is satisfied the circumstances have had, are having, will have or are likely to have on:
 - (A) the control, or potential control, of Richfield or
 - (B) the acquisition by a person of a substantial interest in Richfield
 - (ii) the purposes of Chapter 6 set out in section 602 and
 - (iii) because they gave or give rise to contraventions of provisions of Chapter 6 and 6C of the Act.

22. The Panel considers that it is not against the public interest to make a declaration of unacceptable circumstances. It has had regard to the matters in section 657A(3).

DECLARATION

The Panel declares that the circumstances constitute unacceptable circumstances in relation to the affairs of Richfield.

Allan Bulman
Director
with authority of Peter Day
President of the sitting Panel
Dated 22 April 2015