



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP25/022

Friday, 4 April 2025

Dropsuite Limited – Declaration of Unacceptable Circumstances and Orders

The Panel has made a declaration of unacceptable circumstances (Annexure A) and final orders (Annexure B) in relation to an application dated 17 March 2025 by Harvest Lane Asset Management Pty Ltd in relation to the affairs of Dropsuite Limited (ASX: DSE) (**Dropsuite**) (see [TP25/018](#) and [TP25/020](#)).

Background

Dropsuite is an ASX listed company.

On 28 January 2025, Dropsuite announced that it had entered into a scheme implementation deed with NinjaOne, LLC and NinjaOne Australia Pty Ltd (together, **NinjaOne**), under which NinjaOne Australia Pty Ltd had agreed to acquire 100% of Dropsuite's ordinary shares for \$5.90 per share in cash via a scheme of arrangement (**Proposed Scheme**).

In its announcement, Dropsuite made the following statements (**First Intention Statement**) regarding its largest shareholder, Topline Capital Management, LLC (**Topline**), which had been approved by Topline:

- “Dropsuite's largest shareholder, Topline Capital Management, LLC, which holds or controls approximately 31.0% of the Company's issued capital⁵ as at the date of this announcement, has confirmed to Dropsuite that it intends to vote, or cause to be voted, all Dropsuite shares held or controlled by it in favour of the Scheme, subject to the same qualifications.

...

⁵ As at the date of this announcement, Topline Capital Management, LLC holds or controls approximately 21.6m Dropsuite shares, representing approximately 31.0% of the Dropsuite shares on issue on an undiluted basis” and

- “Dropsuite's largest shareholder, Topline Capital Management, LLC, which as at the date of this announcement, holds or controls approximately 21.6 million Dropsuite shares or 31.0% of the Company's issued capital on an undiluted basis, has confirmed to Dropsuite that it intends to vote, or cause to be voted, all Dropsuite shares held or controlled by it in favour of the Scheme in the absence of a Superior Proposal and

subject to an Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interest of Dropsuite shareholders”.

Between 28 January 2025 and 6 February 2025 (inclusive), Topline disposed of Dropsuite shares on-market, decreasing its voting power from 21,639,316 shares (31.0%) to 13,829,409 shares (19.7%). Topline was required under section 671B of the *Corporations Act 2001* (Cth) (**Act**) to lodge substantial holder notices in relation to these disposals on 4 separate occasions, being by 30 January, 31 January, 4 February and 6 February 2025 respectively, but only disclosed its change in voting power in one notice on 18 February 2025.¹

Topline’s 18 February 2025 substantial holder notice stated *“Topline Capital continues to firmly support Dropsuite being acquired by NinjaOne. The share sales were made because of an [unforeseen] need for liquidity and because the position became a large percent of the portfolio. Topline Capital intends to hold its remaining shares through the close of the transaction and vote in favor of the transaction”* (**Second Intention Statement**).

Between 27 February 2025 and 17 March 2025 (inclusive), Topline disposed of Dropsuite shares on-market, decreasing its voting power from 13,829,409 shares (19.7%) to 7,363,034 shares (10.5%). Topline was required under section 671B of the *Act* to lodge substantial holder notices in relation to these disposals on 4 separate occasions, being by 4 March, 13 March, 14 March and 18 March 2025 respectively, but only disclosed its change in voting power in one notice on 18 March 2025.²

The meeting of Dropsuite shareholders to consider and vote on the Proposed Scheme (**Scheme Meeting**) has been convened to be held on 9 May 2025.

Declaration

It appeared to the Panel that:

- Topline has contravened the substantial holder provisions on the occasions referred to above.
- The First Intention Statement was ambiguous as to whether Topline had implied it would not dispose of any Dropsuite shares prior to the shareholder meeting to approve the Proposed Scheme.
- The First Intention Statement would have been clarified on 30 January 2025 if Topline had lodged a substantial holding notice by that date, as it was required to do.

¹ The ASIC Form 604 was lodged by Topline’s associate, Topline Capital Partners LP (being the registered holder of the Dropsuite shares)

² Ibid

- Topline's disposals of Dropsuite shares between 27 February 2025 and 17 March 2025 (inclusive) were contrary to the intention stated in the Second Intention Statement.
- As a result of the above, among other things, the market for Dropsuite was uninformed about material developments in relation to the level of support for the Proposed Scheme during a period in which trading in Dropsuite shares took place.

The Panel considered that the circumstances were unacceptable:

- having regard to the effect that the Panel is satisfied they have had, are having, will have or are likely to have:
 - on the control, or potential control, of Dropsuite or
 - on the acquisition, or proposed acquisition, by a person of a substantial interest in Dropsuite
- in the alternative, having regard to the purposes of Chapter 6 set out in section 602 of the Act
- in the further alternative, because they constituted, constitute, will constitute or are likely to constitute a contravention of a provision of Chapter 6C of the Act or gave or give rise to, or will or are likely to give rise to, a contravention of a provision of Chapter 6C of the Act.

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).

Orders

The Panel has made orders that Topline, Topline Capital Partners LP and their associates must: (1) not sell, transfer or otherwise dispose of any shares or interests in shares in Dropsuite, (2) not decrease their voting power in Dropsuite, and (3) vote, or cause to be voted, all Dropsuite shares held or controlled by them at the date of the Scheme Meeting in favour of the Proposed Scheme, subject to the same qualifications as those contained in the First Intention Statement.

This order has effect until the earliest of: (1) the date on the day immediately following the Scheme Meeting, (2) if the scheme implementation deed between Dropsuite and NinjaOne is terminated, the date of such termination, (3) 28 September 2025 (being the 'End Date' in the scheme implementation deed) or (4) further order of the Panel.

The orders also provide parties and ASIC with the liberty to apply for further orders, to deal with (among other things) developments in relation to the Proposed Scheme.

The sitting Panel was Bruce McLennan (sitting President), Deborah Page AM and Kate Towey.

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

DROPSUITE LIMITED

CIRCUMSTANCES

1. Dropsuite Limited (**Dropsuite**) is an ASX listed company.
2. On 28 January 2025, Dropsuite announced that it had entered into a scheme implementation deed with NinjaOne, LLC and NinjaOne Australia Pty Ltd (together, **NinjaOne**), under which NinjaOne Australia Pty Ltd had agreed to acquire 100% of Dropsuite's ordinary shares for \$5.90 per share in cash via a scheme of arrangement (**Proposed Scheme**).
3. In its announcement, Dropsuite made the following statements (**First Intention Statement**) regarding its largest shareholder, Topline Capital Management, LLC (**Topline**), which had been approved by Topline:
 - (a) *"Dropsuite's largest shareholder, Topline Capital Management, LLC, which holds or controls approximately 31.0% of the Company's issued capital⁵ as at the date of this announcement, has confirmed to Dropsuite that it intends to vote, or cause to be voted, all Dropsuite shares held or controlled by it in favour of the Scheme, subject to the same qualifications.*
...
⁵ As at the date of this announcement, Topline Capital Management, LLC holds or controls approximately 21.6m Dropsuite shares, representing approximately 31.0% of the Dropsuite shares on issue on an undiluted basis" and
 - (b) *"Dropsuite's largest shareholder, Topline Capital Management, LLC, which as at the date of this announcement, holds or controls approximately 21.6 million Dropsuite shares or 31.0% of the Company's issued capital on an undiluted basis, has confirmed to Dropsuite that it intends to vote, or cause to be voted, all Dropsuite shares held or controlled by it in favour of the Scheme in the absence of a Superior Proposal and subject to an Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interest of Dropsuite shareholders".*

4. Between 28 January 2025 and 6 February 2025 (inclusive), Topline disposed of Dropsuite shares on-market, decreasing its voting power from 21,639,316 shares (31.0%) to 13,829,409 shares (19.7%). Topline was required under section 671B of the *Corporations Act 2001* (Cth) (**Act**) to lodge substantial holder notices in relation to these disposals on 4 separate occasions, being by 30 January, 31 January, 4 February and 6 February 2025 respectively, but only disclosed its change in voting power in one notice on 18 February 2025.³
5. Topline's 18 February 2025 substantial holder notice stated *"Topline Capital continues to firmly support Dropsuite being acquired by NinjaOne. The share sales were made because of an [unforeseen] need for liquidity and because the position became a large percent of the portfolio. Topline Capital intends to hold its remaining shares through the close of the transaction and vote in favor of the transaction"* (**Second Intention Statement**).
6. Between 27 February 2025 and 17 March 2025 (inclusive), Topline disposed of Dropsuite shares on-market, decreasing its voting power from 13,829,409 shares (19.7%) to 7,363,034 shares (10.5%). Topline was required under section 671B of the Act to lodge substantial holder notices in relation to these disposals on 4 separate occasions, being by 4 March, 13 March, 14 March and 18 March 2025 respectively, but only disclosed its change in voting power in one notice on 18 March 2025.⁴
7. On 11 March, 12 March and 14 March 2025, 3 institutions respectively lodged notices of initial substantial holder in relation to their substantial shareholdings in Dropsuite.
8. The meeting of Dropsuite shareholders to consider and vote on the Proposed Scheme has been convened to be held on 9 May 2025.

EFFECT

9. It appears to the Panel that:
 - (a) Topline has contravened the substantial holder provisions on the occasions referred to in paragraphs 4 and 6 above.
 - (b) The First Intention Statement was ambiguous as to whether Topline had implied it would not dispose of any Dropsuite shares prior to the shareholder meeting to approve the Proposed Scheme.

³ The ASIC Form 604 was lodged by Topline's associate, Topline Capital Partners LP (being the registered holder of the Dropsuite shares)

⁴ Ibid

- (c) The First Intention Statement would have been clarified on 30 January 2025 if Topline had lodged a substantial holding notice by that date, as it was required to do.
- (d) Topline's disposals of Dropsuite shares between 27 February 2025 and 17 March 2025 (inclusive) were contrary to the intention stated in the Second Intention Statement.
- (e) As a result of the above, among other things, the market for Dropsuite was uninformed about material developments in relation to the level of support for the Proposed Scheme during a period in which trading in Dropsuite shares took place.

CONCLUSION

10. It appears to the Panel that the circumstances are unacceptable circumstances:
- (a) having regard to the effect that the Panel is satisfied they have had, are having, will have or are likely to have:
 - (i) on the control, or potential control, of Dropsuite or
 - (ii) on the acquisition, or proposed acquisition, by a person of a substantial interest in Dropsuite
 - (b) in the alternative, having regard to the purposes of Chapter 6 set out in section 602 of the Act
 - (c) in the further alternative, because they constituted, constitute, will constitute or are likely to constitute a contravention of a provision of Chapter 6C of the Act or gave or give rise to, or will or are likely to give rise to, a contravention of a provision of Chapter 6C of the Act.
11. 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 Dropsuite.

Allan Bulman
Chief Executive
with authority of Bruce McLennan
President of the sitting Panel
Dated 4 April 2025



Australian Government

Takeovers Panel

ANNEXURE B

CORPORATIONS ACT

SECTION 657D

ORDERS

DROPSUITE LIMITED

The Panel made a declaration of unacceptable circumstances on 4 April 2025.

THE PANEL ORDERS

1. Topline Capital Management LLC, Topline Capital Partners LP and their associates must:
 - (a) not sell, transfer or otherwise dispose of any shares or interests in shares in Dropsuite
 - (b) not decrease their voting power in Dropsuite and
 - (c) vote, or cause to be voted, all Dropsuite shares held or controlled by them at the date of the Scheme Meeting in favour of the Proposed Scheme, subject to the same qualifications as those contained in the First Intention Statement.
2. The parties to these proceedings and ASIC have the liberty to apply for further orders.
3. Order 1 applies until the earliest of:
 - (a) 10.00am (Melbourne time) on the day immediately following the Scheme Meeting
 - (b) if the Scheme Implementation Deed is terminated, the date of such termination
 - (c) 28 September 2025 or
 - (d) further order of the Panel.

Definitions

4. In these orders the following terms apply:

Dropsuite

Dropsuite Limited

**First Intention
Statement**

The following statements contained in Dropsuite's ASX announcement dated 28 January 2025:

"Dropsuite's largest shareholder, Topline Capital Management, LLC, which holds or controls approximately 31.0% of the Company's issued capital⁵ as at the date of this announcement, has confirmed to Dropsuite that it intends to vote, or cause to be voted, all Dropsuite shares held or controlled by it in favour of the Scheme, subject to the same qualifications.

...

⁵ As at the date of this announcement, Topline Capital Management, LLC holds or controls approximately 21.6m Dropsuite shares, representing approximately 31.0% of the Dropsuite shares on issue on an undiluted basis"

and

"Dropsuite's largest shareholder, Topline Capital Management, LLC, which as at the date of this announcement, holds or controls approximately 21.6 million Dropsuite shares or 31.0% of the Company's issued capital on an undiluted basis, has confirmed to Dropsuite that it intends to vote, or cause to be voted, all Dropsuite shares held or controlled by it in favour of the Scheme in the absence of a Superior Proposal and subject to an Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interest of Dropsuite shareholders"

Proposed Scheme

means the proposed scheme of arrangement pursuant to which NinjaOne Australia Pty Ltd is to acquire all of the shares in Dropsuite for \$5.90 per share in cash

**Scheme
Implementation Deed**

the scheme implementation deed between Dropsuite, NinjaOne, LLC and NinjaOne Australia Pty Ltd dated 28 January 2025 in relation to the Proposed Scheme

Scheme Meeting

the meeting of Dropsuite shareholders to consider and vote on the Proposed Scheme (including any meeting convened following any adjournment or postponement of that meeting)

Allan Bulman
Chief Executive
with authority of Bruce McLennan
President of the sitting Panel
Dated 4 April 2025