



**In the matter of The Gribbles Group Limited
[2004] ATP 15**

Catchwords:

*Beneficial tracing notices – substantial shareholder notices – interim orders – withdrawal of application
Corporations Act 2001 (Cth), sections 671B, 672A and 672B*

On 16 and 21 July 2004, the Panel issued media releases concerning an application by ASIC in relation to the affairs of The Gribbles Group Limited. The Panel was not required to make a decision in relation to the application as it consented to the application being withdrawn.

THE PROCEEDING

1. The Panel received an application (the **Application**) from the Australian Securities and Investments Commission (**ASIC**) dated 9 July 2004 alleging unacceptable circumstances in relation to the affairs of The Gribbles Group Limited (**Gribbles**).
2. On 21 July 2004, we decided to consent to the Application being withdrawn.

THE PANEL

3. The President of the Panel appointed Meredith Hellicar (sitting President), Robyn Pak-Poy (sitting Deputy President) and Simon Withers as the sitting Panel for the Application.

THE APPLICATION

4. The Application alleged unacceptable circumstances in relation to the affairs of Gribbles and, in particular, in relation to a parcel of 194,516,455 ordinary shares (the **ECMI Parcel**) in Gribbles held by ANZ Nominees Limited (**ANZ Nominees**) on trust solely for EC Medical Investments NV (**ECMI**). The ECMI Parcel constituted 43.05% of the total issued capital of Gribbles. The Application related to the alleged failure by parties associated with ECMI to comply with the tracing and substantial holding provisions of the *Corporations Act 2001 (Cth)*.

Orders sought by ASIC

5. ASIC sought the following orders:

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- (a) under section 657E, interim orders restricting the voting, transfer or disposal of the ECMI Parcel until the conclusion of the Panel proceedings;
- (b) under section 657D, orders that the legal title to and beneficial ownership of the ECMI Parcel be vested in ASIC by the transfer of the ECMI Parcel to ASIC, the appointment by ASIC of a broker to dispose of the ECMI Parcel in the manner that, in the Panel's view, would not unduly disrupt the market and remitting the proceedings of sale to ANZ Nominees; and
- (c) any other orders that the Panel may deem appropriate in the circumstances.

DECISION

- 6. On 16 July 2004, we decided to accept an undertaking from ECMI that ECMI would not transfer, dispose of, or otherwise deal with, its beneficial interest in the ECMI Parcel, or cause ANZ Nominees to transfer, dispose of, or otherwise deal with, its legal interest in the ECMI Parcel, until the conclusion of the Panel proceedings. Having accepted this undertaking, we were not required to consider the interim order sought by ASIC in the Application.
- 7. On 16 July 2004, ECMI lodged with ASIC:
 - (a) a Notice of Substantial Holder executed by Investec Trustees (Jersey) Limited on behalf of itself and Jelsker Corporation NV, Palagiano Holding BV, Pianoro Holding BV and Wallace Stuart Cameron; and
 - (b) a Notice of Change of Interests of Substantial Holder executed by ECMI.
- 8. Having regard to the extent to which these lodgements may have remedied any circumstances alleged in the Application to be unacceptable, we wrote to the parties on 16 July 2004 inviting ASIC to indicate whether it wished to continue with the Application (with or without amendment) and inviting the other parties to make submissions as to whether we should or should not continue with the Application.
- 9. On 20 July 2004, ASIC sought our consent to withdraw the Application. We consented to the Application being withdrawn considering the disclosures made on behalf of Investec Trustees (Jersey) Limited, Jelsker Corporation NV, Palagiano Holding BV, Pianoro Holding BV, ECMI and Wallace Stuart Cameron on 16 July 2004.

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10. Given the developments in this proceeding, we were not required to make any decision whether or not unacceptable circumstances existed as alleged in the Application.

Meredith Hellicar

President of the Sitting Panel

Decision dated 21 July 2004

Reasons published 27 July 2004