



Wednesday, 18 October 2006

Azumah Resources Limited – Panel Makes Declaration of Unacceptable Circumstances

The Takeovers Panel (**Panel**) advises that it has made a declaration of unacceptable circumstances in relation to the affairs of Azumah Resources Limited (**Azumah**) following an application (**Application**) from Azumah dated 26 September 2006.

The Panel decided that unacceptable circumstances exist as a result of the inadequate disclosure contained in Azumah's prospectus and the substantial holding notices and tracing notices in relation to the shareholders, controllers and beneficial owners of Bluesky Resources Limited (**Bluesky**), Trailstar Limited (**Trailstar**), Redstar Resources Limited (**Redstar**), Bluestar Resources Limited (**Bluestar**) and Falconsand Limited (**Falconsand**) (**Vendors**) in respect of their holdings in Azumah. The Vendors, in total, hold more than 35% of the voting shares in Azumah (see Annexure B – Shareholding).

The Panel decided that the inadequate disclosure in the notices constituted unacceptable circumstances because, in the Panel's view, it constituted, or gave rise to, a contravention of section 671B and 672B of the Corporations Act (**Act**). However, the Panel considered that the evidence presented to it did not establish that all of the Vendors were associated or that there had been a contravention of section 606 of the Act as submitted by Azumah.

The Panel has sought submissions from the parties in relation to possible orders that it may make following the declaration of unacceptable circumstances and is currently waiting for parties' submissions. The Panel is also interested in receiving submissions from Azumah shareholders or other persons potentially affected by the lack of disclosure that the Panel has found on the orders that the Panel could make to remedy the effects of the lack of disclosure. The Panel provides this media release, prior to making its final orders, to invite submissions on orders.

The questions on which the Panel invites submission are set out in Annexure A. The deadline for submissions from Azumah shareholders and other persons potentially affected is 3.00pm (Perth time) on Wednesday 25 October 2006.

The Panel noted that if it received significant submissions from Azumah shareholders it may need to consider whether there would be sufficient time for it to take any further action prior to the date of the general meeting of Azumah currently scheduled for 3 November 2006.

Discussion

Vendors

The Vendors are beneficially owned and controlled as follows:

- (a) Redstar (which holds 7.65% of Azumah) is beneficially owned and controlled by David Harper (**Harper**) (as to 78%) and Yaw Benneh Amponsah (**Amponsah**) (as to 22%);
- (b) Trailstar (which holds 8.08% of Azumah) is beneficially owned and controlled by Harper;
- (c) Bluesky and Falconsand (which together hold 12.75% of Azumah) are beneficially owned and controlled by Mr Henry Wiechecki (**Wiechecki**); and
- (d) Bluestar (which holds 6.8% of Azumah) is beneficially owned and controlled by Mr Paul Amoako-Atta (**Amoako**).

Harper has a relevant interest, in total, in 15.79% of Azumah. Wiechecki has a relevant interest in 13.9% of Azumah.

This information is set out in more detail in Annexure B.

Prospectus

On 25 October 2005, Azumah issued a prospectus in connection with the issue of shares and options in Azumah (**Prospectus**). The Prospectus disclosed that Azumah had entered into an acquisition agreement with the Vendors, Amoako and Wiechecki, under which the purchase consideration payable to the Vendors included shares in Azumah equating to approximately 34% of Azumah's shares immediately following its admission to the official list of the ASX and 3,000,000 options. The shares and options were consideration for the Vendors selling ownership of a number of gold exploration tenements in Ghana to Azumah.

The Prospectus did not disclose the identity of the shareholders, controllers or beneficial owners of the Vendors, nor did it address the implications of the shares and options to be issued to the Vendors for control or potential control of Azumah. The Panel considered that disclosure in respect of the interests of Wiechecki, Harper, Amoako and Amponsah (**Controllers**) in the Vendors should have been made to enable investors to make an informed assessment in relation to Azumah's offer of shares and the control or likely control of Azumah after the initial public offering.

Substantial holder notices

On 16 February 2006, each Vendor lodged a substantial holder notice under section 671B of the Act with Azumah, disclosing that it had become a substantial holder on 8 December 2005.

Each Vendor disclosed that it was the registered holder of a certain number of shares but did not identify any other person or associate having a relevant interest in those shares or controlling the Vendors. It was submitted by the Controllers (and Azumah did not deny) that drafts of the substantial holder notices were prepared by Azumah's company secretary, and Azumah was aware, at all material times, that Bluestar was controlled by Amoako and that Bluesky and Falconsand were controlled by Wiechecki.

The Panel determined that the substantial holder notices failed to provide information required by section 671B of the Act concerning, among other things:

- (a) persons associated with each Vendor having relevant interest in Azumah and details of those relevant interests; and
- (b) declarations of trust by the holders of shares in the Vendors in favour of the Controllers.

The Panel also considered that each of the Controllers failed to give substantial holder notices in accordance with section 671B of the Act.

Tracing Notices

On 13 September 2006, Azumah received responses from the Vendors (**Tracing Notice Responses**) to the tracing notices issues by Azumah under section 672A(1) of the Act. The Tracing Notice Responses identified each relevant Controller as providing instructions relating to the acquisition of shares in Azumah to the relevant Vendor.

None of the Tracing Notice Responses disclosed that any other person had a relevant interest in the shares held by each Vendor.

The Panel determined that each Tracing Notice Response failed to provide information required by section 672B(1) of the Act, including:

- (a) details required by paragraphs 672B(1)(a) with respect to each Vendor's relevant interest; and
- (b) names, addresses and details required by paragraphs 672B(1)(b) with respect to the respective relevant interests referred to above in the substantial holder notices discussion.

Decision

The Panel considered that there had been clear contravention of the substantial holding notice and tracing notice provisions of the Act, particularly in relation to disclosure of the controllers and beneficial owners of the Vendors.

The Controllers indicated their willingness to give revised substantial holder notices, but did not admit any contraventions and submitted that defences would be available to them. The Panel did not consider that the submissions of parties concerning defences provided a basis for the Panel to decline to make a declaration of

unacceptable circumstances. It was not necessary for the Panel to consider whether any contraventions involved an offence by any person or whether any defences would be available. Such matters can only be conclusively determined by a court.

The sitting Panel in these proceedings is Carol Buys, Kathleen Farrell (sitting President) and Heather Zampatti.

The Panel will publish its reasons for decision on its website in due course.

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Annexure A - Submissions on orders

The Panel invites submissions from Azumah shareholders, and other persons potentially affected by the lack of disclosure that the Panel has found, as to:

1. whether, if each of the Vendors, Mr Wiechecki, Mr Amoako-Atta, Mr Harper and Mr Amponsah were to make (or undertake to make) further disclosure to correct any failure to comply with Part 6C.1 and Part 6C.2 of the Corporations Act, such disclosure would sufficiently address the unacceptable circumstances that the Panel has found such that the Panel should decline to make orders;
2. whether the Panel should make:
 - (a) orders vesting shares in ASIC to be sold (and the proceeds less costs and expenses remitted to the holders of those shares). If such orders are appropriate, should they relate to:
 - (i) shares in which any party has a relevant interest in excess of the 5% substantial holder threshold; or
 - (ii) the shares referred to in (A), but only to the extent such shares were not disclosed in the substantial holder notices lodged on 16 February 2006;
 - (iii) any other portion of the shares in which the Vendors, Mr Wiechecki, Mr Amoako-Atta, Mr Harper or Mr Amponsah, have a relevant interest;
 - (b) orders restricting voting of any of the Sale Shares at the meeting convened for 3 November or otherwise;
 - (c) orders as to costs; or
 - (d) any other orders to remedy the unacceptable circumstances found by the Panel,
(together, **proposed orders**);
3. the effects of the unacceptable circumstances on Azumah shareholders or other persons;
4. the effects of the proposed orders in remedying any unacceptable circumstances on Azumah shareholders or other persons;
5. the effects of the proposed orders on any person to whom the orders are directed;
6. what steps the Panel might take to mitigate any adverse effects of the proposed orders;
7. whether any person might be unfairly prejudiced by the proposed orders.

Submissions should be sent by email to:

bruce.dyer@takeovers.gov.au and jorja.mahoney@takeovers.gov.au

so as to be received by **3.00pm (Perth time) on Wednesday 25 October 2006.**

Annexure B - Shareholding

Name of Holder	Controller of Holder	Number of Shares held by Holder	Percentage of Azumah
Trailstar Limited	David Harper	5,046,875	8.08%
Redstar Resources Limited	David Harper Yaw Benneh Amponsah	4,781,250	7.65%
Bluestar Resources Limited	Paul Amoako-Atta	4,250,000	6.8%
Bluesky Resources Limited	Henry Wiechecki	4,781,250	7.65%
Falconsand Resources Limited	Henry Wiechecki	3,187,500	5.1%
Total		22,046,875	35.28%

In addition to his interest in Trailstar and Redstar, Harper also directly holds 39,000 shares in Azumah (0.06%). In total, Harper has a relevant interest in 9,867,125 shares in Azumah (15.79%).

In addition to his interest in Bluesky and Falconsand, Wiechecki also directly holds 703,125 share in Azumah (1.13%). In total, Wiechecki has a relevant interest in 8,671,875 shares in Azumah (13.9%).

In addition to his interest in Bluestar, Amoako also directly holds 375,000 shares in Azumah (0.6%). In total, Amoako has a relevant interest in 4,625,000 shares in Azumah (7.4%).

Each of Trailstar, Redstar, Bluestar, Bluesky and Falconsand has two shares on issue, held by City Corporate Services Limited and Harbour Nominees Limited, corporate services firms incorporated in the Isle of Man. City Corporate Services Limited and Harbour Nominees Limited hold the shares on trust for the controllers of the relevant companies.